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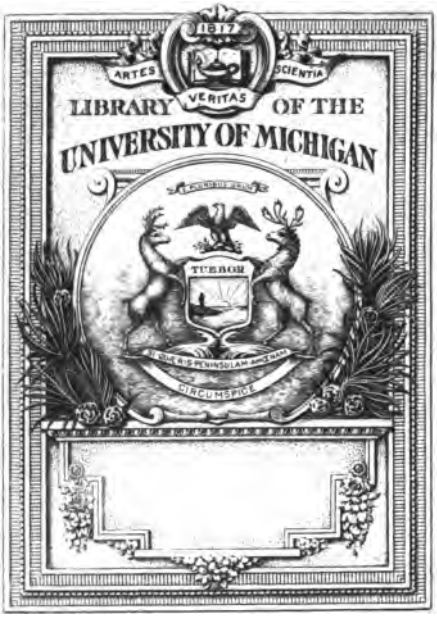

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THE

Metropolitan Buildings Act,

7 & 8 VICT. CAP. LXXXIV.;

WITH

NOTES AND CASES

EXPLANATORY OF

Its Law and Practice.

BY
THOMAS CHAMBERS,
OF THE MIDDLE TEMPLE, BARRISTER-AT-LAW;
AND
GEORGE TATTERSALL,
SURVEYOR.

1814-15

Second Edition.

LONDON:
LUMLEY, 56, CHANCERY LANE.

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THE LAWS RELATING TO BUILDINGS;

COMPRISING

The New Buildings Act, 7 & 8 Vict. c. 84.—Fixtures.—Dilapidations.—Insurance against Fire.—Ways, Thoroughfares, and Water-Courses; with a Copious Glossary of Technical Terms peculiar to Building; Notes; and an Index.

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PREFACE TO THE FIRST EDITION.

In presenting to our readers the present Treatise on the New Metropolitan Buildings Act, it has been our aim to lay down such rules of practice established under the former statute, as, by analogy, appeared most compatible with the enactments of the new one now under consideration.

The partiality of the Courts of Law to submitting "building cases" to reference, rather than deciding them in open court, has created much difficulty in obtaining established precedents from recorded cases; and the tendency of the new measure will be rather to increase than to diminish this difficulty.

Under these circumstances, we have done our best to direct aright those who may have given less attention to the subject than ourselves; and we hope at some future time, when the measure shall have been permanently wrought into working shape, to present a still more complete edition to the public.

London, 24th August, 1844.

PREFACE TO THE SECOND EDITION.

The New Metropolitan Buildings Act being now in force, a Second Edition of this little work is laid before the public.

It having been found impossible to classify the names and places of residence of the various District Surveyors with any degree of certainty, as they are liable to constant change, the very incorrect list given in our first edition is altogether omitted in this.

The name and residence of any District Surveyor may at all times be ascertained on application at the Office of the Registrar of Metropolitan Buildings, No. 3, Trafalgar-square.

It is hoped that the Index added to this edition may be found to be an useful feature.

London, 15th January, 1845.

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THE

Metropolitan Buildings Act.

7 & 8 Victoriæ, Cap. 84.

An Act for regulating the Construction and Use of Buildings in the Metropolis and its Neighbourhood.

[9th August, 1844.]

Preamble. WHEREAS by the several acts mentioned in Schedule (A.) to this Act annexed, provisions are made for regulating the construction of buildings in the metropolis, and the neighbourhood thereof, within certain limits therein set forth; But forasmuch as buildings have since been extended in nearly continuous lines or streets far beyond such limits, so that they do not now include all the places to which the provisions of such acts, according to the purposes thereof, ought to apply; and moreover such provisions require alteration and amendment; It is expedient to extend such limits, and otherwise to amend such acts:

Extension of limits, and amendment of law.

Improvement of drainage.

And forasmuch as in many parts of the metropolis and the neighbourhood thereof, the drainage of the houses is so imperfect as to endanger the health of the inhabitants; It is expedient to make provision for facilitating and promoting the improvement of such drainage:

Securing a sufficient width of streets, &c.

And forasmuch as by reason of the narrowness of streets, lanes and alleys, and the want of a thoroughfare in many places, the due ventilation of crowded neighbourhoods is often impeded, and the health of the

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inhabitants thereby endangered, and from the close contiguity of the opposite houses, the risk of accident by fire is extended; It is expedient to make provision with regard to the streets and other ways of the metropolis, for securing a sufficient width thereof:

Improper use of buildings.

And forasmuch as many buildings and parts of buildings unfit for dwellings are used for that purpose, whereby disease is engendered, fostered and propagated; It is expedient to discourage and prohibit such use thereof:

Regulation of explosive works.

And forasmuch as by the carrying on in populous neighbourhoods of certain works, in which materials of an explosive or inflammable kind are used, the risk of accidents arising from such works is much increased; It is expedient to regulate, not only the construction of the buildings in which such dangerous works are carried on, but also to provide for the same being carried on in buildings at safe distances from other buildings which are used either for habitation or for trade in populous neighbourhoods:

Regulation of deleterious works.

And forasmuch as by the carrying on of certain works of a noisome kind, or in which deleterious materials are used, or deleterious products are created, the health and comfort of the inhabitants are extensively impaired and endangered; It is expedient to make provision for the adoption of all such expedients as either have been or shall be devised for carrying on such businesses, so as to render them as little noisome or deleterious as possible to the inhabitants of the neighbourhood; and if there be no such expedients, or if such expedients be not available in a sufficient degree, then for the carrying on of such noisome and unwholesome businesses at safer distances from other buildings used for habitation:

Execution of Act, and superintendence thereof.

And forasmuch as great diversity of practice has obtained among the officers appointed in pursuance of the said acts to superintend the execution thereof in the several districts to which such acts apply, and the means at present provided for determining the numerous matters in question which constantly arise, tend to promote such diversity, to increase the expense, and

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to retard the operations of persons engaged in building; It is expedient to make further provision for regulating the office of surveyor of such several districts, and to provide for the appointment of officers to superintend the execution of this Act throughout all the districts to which it is to apply; and also to determine sundry matters in question incident thereto, as well as to exercise in certain cases, and under certain checks and control, a discretion in the relaxation of the fixed rules, where the strict observance thereof is impracticable, or would defeat the object of this Act, or would needlessly affect, with injury, the course and operation of this branch of business:

General Provisions.

Now for all the several purposes above mentioned, and for the purpose of consolidating the provisions of the law relating to the construction and the use of buildings in the metropolis and its neighbourhood; Be it enacted, by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That with regard to this Act generally, so far as relates to the operation thereof in reference to time, it shall come into operation at the following times; (that is to say,) as to the districts and the officers to be appointed in pursuance hereof on the first day of September next, and as to the buildings, streets and other matters, on the first day of January, one thousand eight hundred and forty-five, And that on the said first day of January all the Acts mentioned in the Schedule (A.) hereunto annexed, except so far as in the said schedule is provided, shall be and are hereby repealed.

Operation of Act.

Statutes repealed.

2. Construction of terms.

II. And be it declared, with regard to this Act generally, so far as relates to the construction of certain terms and expressions used therein, That the following terms and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context, or by the nature of the subject-matter; that is to say,—

Street.

The word "street" to include every square, circus, crescent, street, road, place, row, mews, lane, or

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General Provisions.

place along which carriages can pass, or are intended to pass; and that, whether there be or be not, in addition to the carriage-way, a footway, paved or otherwise:

Alley. The word "alley" to include any court, alley, passage, or other public place, which can be used as a footway only:

Square. The word "square," as applied to any area of building, to contain one hundred superficial feet:

Floor. The word "floor" to mean the horizontal platform forming the base of any story, and to include the timber or bricks, or any other substance constituting such platform:

Story. The word "story" to include the full thickness of such floor, as well as the space between the upper surface of one floor and the under surface of the floor next above it; or if there be no floor, then the space between the surface of the ground and the under surface of the floor next above it:

That is to say, that the thickness of the floor is to be included in the measurement of the story.

External wall. The term "external wall" to apply to every outer wall of buildings now built or hereafter to be built, which (excepting the footing thereof on one side) shall stand wholly upon ground of the owner of such buildings, and shall not be used or intended to be used as a party-wall under the definition hereinafter contained, whether the same shall adjoin or not to other outer or to party-walls:

Party-wall. The term "party-wall" to apply to every wall which shall be used, or be built in order to be used, as a separation of two or more buildings with a view to the occupation thereof by different families, or which shall be actually occupied by different families, and also every wall which shall stand upon ground not wholly be-

A "party-fence-wall" is a party-wall dividing intermixed land, such wall not being used for building purposes, but only as a boundary, fence, or division wall.

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longing to the same owner to a greater extent than the projection of its footing on one side: *General Provisions.*

The term "already built" used in reference to buildings, to apply to buildings built before the first day of January, one thousand eight hundred and forty-five, or commenced before that day, and covered in and rendered fit for use within twelve months thereafter; and used in reference to streets and alleys, to apply to all streets or alleys made or laid out before that day, and which shall be formed and rendered fit for use within twelve months thereafter: Already built.

Plans attached to building contracts, building leases, or agreements for leases extending over a series of years, may be modified according to the provisions hereinafter contained in sections 9 and 10.

The term "hereafter to be built," used in reference to buildings, to apply to all buildings to be built or commenced after the first day of January, one thousand eight hundred and forty-five, or which, being commenced, shall not be covered in within twelve months thereafter; and used in reference to streets and alleys, to apply to all streets or alleys not laid out before the said first day of January, or which being laid out shall not be rendered fit for use within twelve months thereafter: Hereafter to be built.

The word "parish" to include all parochial districts and extra-parochial places in which separate churchwardens, overseers, or constables are appointed, and where two parishes have been united for ecclesiastical purposes, then to include such united parishes: Parish.

The word "owner" to apply generally to every person in possession or receipt, either of the whole or of any part of the rents or profits of any ground or tenement, or in the occupation of such ground or Owner.

Tenants in common will be bound under the provisions of this act, (ss. 50 and 112,) to join in necessary repairs, that is to say, in such repairs as the district surveyor or official referees may certify to be necessary.

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General Provisions.

tenement, other than as a tenant from year to year, or for any less term, or a tenant at will:

Official referees.

The term "official referees" to mean the persons appointed in pursuance of this Act to be official referees of metropolitan buildings:

Surveyor.

The word "surveyor" to apply to all surveyors to be appointed in pursuance of this Act, or whose appointment is confirmed by this Act; and also to all deputy or assistant surveyors to be appointed under this Act:

The Surveyor.

The words "the surveyor," used without any addition, to mean the surveyor in whose district the buildings, street, or alley, or other subject-matter shall be, or any deputy or assistant surveyor duly acting in his behalf:

Month.

The word "month" to mean a calendar month:

The commissioners of works and buildings.

The expression "the commissioners of works and buildings" to mean the commissioners of her Majesty's woods, forests, land revenues, works and buildings:

Justice of peace.

The expression "justice of the peace" to mean a justice of the peace for the county, division, or liberty within which the building or other subject-matter, or any part thereof, is situate; unless it be situate within the city of London or the liberties thereof, in reference to which any matter or thing elsewhere required or authorized to be done either by one or by two or more justices of the peace, may be done either by the lord mayor of the city of London, or by any one, two, or more justices of the peace for the said city; or unless the subject-matter be situate in the district of any police court of the metropolis, in reference to which any matter or thing elsewhere required or authorized to be done by two or more justices may be done by one magistrate:

Local officers.

And, generally, whensoever the name of an officer having local jurisdiction in respect of his office is referred to, without mention of the locality to which the jurisdiction extends, such reference is to be understood to indicate the officer having

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jurisdiction in that place, within which is situate the building or other subject-matter, or any part thereof to which such reference applies: *General Provisions.*

And subject as aforesaid to the context, and to the nature of the subject-matter, words importing the singular number are to be understood to apply to a plurality of persons or things; and words importing the masculine gender are to be understood to apply to persons of the feminine gender; and words importing an individual are to be understood to apply to a corporation or company, or other body of persons. Singular and plural. Masculine and feminine. Corporate body.

III. And be it enacted, with regard to this Act generally, so far as relates to the operation thereof in reference to localities, that the operation of this Act shall extend to all places within the following limits; (that is to say) 3. Extent of operation of Act in reference to localities.

To all such places lying on the north side or left bank of the river Thames as are within the exterior boundaries of the parishes of *Fulham*, *Hammersmith*, *Kensington*, Paddington, *Hampstead*, *Hornsey*, *Tottenham*, Saint Pancras, Islington, *Stoke Newington*, *Hackney*, Stratford-le-Bow, *Bromley*, Poplar and Shadwell: The new districts created by this Act are printed in *italics*.

And to such part of the parish of Chelsea as lies north of the said parish of Kensington:

And to all such parts and places lying on the south side or right bank of the said river as are within the exterior boundaries of the parishes of *Woolwich*, *Charlton*, *Greenwich*, *Deptford*, *Lee*, *Lewisham*, *Camberwell*, Lambeth, *Streatham*, *Tooting* and *Wandsworth*:

And to all places lying within two hundred yards from the exterior boundary of the district hereby defined, except the eastern part of the said boundary, which is bounded by the river Lea.

IV. And forasmuch as, partly by the rapid increase 4. ower to ex-

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General Provisions.

tend the limits of Act.

of population in the neighbourhood of the districts to which this Act is to apply, and partly by the tendency of this Act to induce building speculation in such neighbourhoods in order to evade the provisions thereof, the evils which have arisen in the districts not now subject to regulation, will in all probability arise in such neighbourhoods, It is expedient to make provision for the prevention of such evils; and if they should arise, for the remedy thereof, now for those purposes, Be it enacted, with regard to this Act generally, so far as relates to the application thereof to other parts and places in the neighbourhood of the districts appointed by this Act, whether such districts immediately adjoin such parts or places or not, That if, from the growing increase of the population or otherwise, it shall appear to her Majesty in council to be expedient that the provisions of this Act should be extended to any place within twelve miles from Charing-cross, in the city of Westminster, then it shall be lawful for her Majesty in council to direct, by order in council, that at or from a time to be named in such order, the provisions of this Act shall apply to such places; and, at or from such time, all such provisions of whatever nature, whether penal or otherwise, so far as they shall be capable of application to such places, shall be and are hereby declared to apply thereto as if such places were expressly named herein; and that notice of the time when it shall please her Majesty to order any such extension to be taken into consideration by her privy council shall be published by royal proclamation in the "London Gazette," one month at the least before such extension shall be taken into consideration; And that three weeks at the least before such matter shall be so considered, it shall be the duty of the official referees and the overseers of the parishes within which such parts or places are situate, to cause copies of such proclamation to be fixed on the doors of the churches and chapels within such parishes, and that every order in council made in pursuance of this enactment, shall be published in the "London Gazette."

Publication of notice of intention to extend limits of Act.

5. Regulation of buildings.

V. And now generally, for the purpose of regulating

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the building and the rebuilding upon sites of former buildings, and the enlarging and altering of all buildings, of what nature soever, within the limits aforesaid; Be it enacted, with regard to every such building hereafter to be built (except the buildings comprised in Schedule (B.) hereto annexed, and except sewers made by or under the direction of any commissioners of sewers), so far as relates to building the same, and with regard to every such building, either already or hereafter built, (except the said buildings comprised in the said Schedule (B.), and except the said sewers), so far as relates to the rebuilding, and the enlarging or altering the same, and that whether such buildings be built or rebuilt on old or new foundations, or partly on old and partly on new foundations, That, notwithstanding any thing contained to the contrary in any act of parliament now in force, every such building shall be built, rebuilt, enlarged or altered in reference to the walls, whether external or party-walls, and to the number and height of the stories or rooms therein, and to the chimnies, and to the roofs, and to the timbers, and to the drains, and to the projections, and to any other parts or appendages of every such building, in the manner and of the materials, and in every other respect in conformity with the several particulars, rules and directions which are specified and set forth in the several Schedules (C.), (D.), (E.), (F.), (G.), (H.), (I.), (K.), to this Act annexed, according to the classes of buildings, and the rates of such classes to which such buildings are by the Schedule (C.) declared to belong; subject nevertheless to any other rules and directions in this Act contained in the same behalf; and subject in every case of doubt, difference or dissatisfaction in respect thereof, either between any parties concerned or between any party concerned and the surveyor of the district, to the determination of the official referees, upon a reference of the matter in

Buildings, New and Old.

Rates of buildings, and thicknesses of walls and footings, and rules concerning buildings.

For a definition of the distinction between "Repair" and "Rebuilding," see the Glossary, Art. Rebuilding.

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Buildings, New and Old.

question, according to the provisions of this Act in that behalf.

6. Buildings under supervision of official referees.

VI. And be it enacted, with regard to all buildings of the first rate of the second or warehouse class, and to all buildings of the third or public-building class (except the buildings hereinbefore excepted), so far as relates to the supervision thereof, That, subject to the provisions in Schedule (C.) and elsewhere in this Act made in respect thereof, every such building shall be built under the special supervision of the official referees, according to the provisions of this Act in that behalf, as well as under the ordinary supervision of the surveyor; and if any difference arise as to whether any such building be liable to such special supervision, the same shall be determined by the official referees; subject nevertheless to an appeal, at the instance of any party interested, to the commissioners of works and buildings, whose decision in the matter shall be final.

7. Special supervision of exempted buildings.

VII. And whereas, by several acts now in force, certain buildings and structures have been exempted from the operation of the Act mentioned in the Schedule (A.), hereto annexed, for the regulation of buildings and party-walls within the cities of London and Westminster, and the liberties thereof, and other the parishes and places therein mentioned: Be it enacted, with regard to the buildings hereinbefore exempted and comprised in Schedule (B.), so far as relates to the supervision thereof, That, notwithstanding any thing contained to the contrary in any act or acts now in force, every such building or other structure mentioned in the said Schedule (B. Part I.) shall be subject to special supervision by the official referees, according to the provisions of this Act in that behalf; and every such building or other structure mentioned in the said Schedule (B. Part II.) shall be exempt from supervision.

Many buildings hitherto exempted from the operations of the Building Act, as royal palaces, gaols, bridges and many others, as detailed in Schedule (B.) are by this clause brought under its jurisdiction.

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Buildings, New and Old.

VIII. Provided always, and be it enacted, with regard to any building of whatever kind, which is not hereby expressly assigned to any class or rate of a class, so far as relates to the application of this Act thereto, That if any party be desirous of erecting any building which does not come within any one of the said classes, or of any rate of such classes, then such building shall be built in accordance with such class and rate as shall be directed by the surveyor, subject, as in other cases of doubt, difference or dissatisfaction, to an appeal to the official referees.

8. Buildings not within rates.

9. Modification of building contracts.

IX. Provided always, and be it enacted, with regard to any building of whatever class, so far as relates to the modification of any written contract or agreement now in force for erecting or altering such building (other than a contract or agreement in the nature of a building lease), That it shall not be lawful to execute such contract otherwise than in conformity with the provisions of this Act; but it shall be lawful for either party, and he is hereby entitled to deviate from such contract, so far as any part thereof may remain to be executed after this Act shall have come into operation; and the alterations rendered necessary by this Act shall be performed as if this Act had been in force when such contract was entered into; And that if the parties thereto shall disagree about the difference of the costs and expenses of the works when performed according to the provisions of this Act, and the works as stipulated for in such contract, then, upon notice

This clause clearly sets aside all contracts for building according to plans not in conformity with the provisions of this Act. Where, however, such a contract, entered into in the form of an agreement to build, has been partially acted upon, and the plan thereby actually established; such plan may be carried out to completion, provided that all the foundations be laid before the 1st of January, 1845, and the building completed before the 1st of January, 1846, for it would then come under the definition (s. 2,) of "already built." A lessee cannot, however, call upon his lessor to alter any building plan attached to a current contract, excepting insomuch as the same may have been rendered actually illegal by this Act; as in the case of the width of a street, &c.; and, moreover, a lessor so altering any plan as

Reference to the surveyor, or on appeal to the official referees.

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Buildings, New and Old.

being given in writing by one party to the other, it shall be lawful for either party, and he is hereby entitled, to refer the matter to the surveyor, who shall determine the same, subject to appeal as aforesaid to the official referees; and the award of such official referees shall be final and binding on all the parties, and in all respects as if such award had formed part of the contract; and the costs of the reference shall be borne by all, or any, or either of the parties, in such manner and proportion as the surveyor, or, in case of appeal, as the official referees, shall appoint.

to conform with the provisions of this Act, would be protected from any actions at the suit of any one or more of his lessees for so doing. Nevertheless, neither lessor nor lessee will be justified under this Act in altering or deviating from any current contract in any respect other than to accommodate it strictly to the legal provisions of this Act.

The main difference between this section and the ensuing (s. 10,) is, that this applies especially and solely to building contracts in actual operation, and to current building agreements; whereas the other (s. 10,) provides for buildings *in esse*, or rebuildings contingent upon leases or agreements either actually existing, or which may hereafter be entered into.

10. Modification of building of leases.

X. Provided always, and be it enacted, with regard to any building, of whatever class, so far as relates to the modification of any existing lease or agreement for a lease being of the nature of a building lease, whereby any person may be bound to erect buildings, That notwithstanding any thing herein contained, if it be made to appear to the official referees that any rules by this Act prescribed will prevent the due observance of or be at variance with any such lease or agreement, and that the objects of this Act may be obtained by modifying such rules either entirely or partially in conformity with such lease

This clause affects policies of insurance, inasmuch as they are contingent building agreements, and that this Act compels all new buildings to be rebuilt in conformity with its regulations. But as in no case can the insured call upon the insurer for more than the actual amount of the policy, the clause (if any) binding a lessee to rebuild in case of fire becomes a building agreement between a lessor and lessee, and as such is capable of modification or arrangement between the parties, as provided for by sections 9 and 10 of this Act.

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or agreement, then it shall be lawful for the said official referees by their award to authorize such modification, subject nevertheless to the approbation of the commissioners of works and buildings, and subject to such modification, or in default thereof it shall be the duty of such person so bound to erect buildings, and he is hereby required to erect every building agreed to be built by such lease or agreement, according to the conditions rendered necessary by this Act, in the same or like manner as if this Act had been passed and in operation at the time of making such lease or agreement, And that on the completion of such works, either according to the provisions of this Act or according to such modification aforesaid, and on giving to the lessor and other owners of such building fourteen days' notice of his intention to apply to the official referees on this behalf, it shall be lawful for the lessee or tenant, and he is hereby entitled to require the official referees to ascertain what loss present and prospective has been occasioned by the observance of the provisions of this Act, and having regard to the respective terms and interests of the lessee or tenant, the lessor and other owners of such building, and having regard to any profit, benefit or advantage, which may have accrued to such lessee or tenant since the execution of such lease or agreement, and which may appear to the said official referees not to have been in the contemplation of the parties to such lease or agreement at the time of such execution thereof as aforesaid, to determine whether he is entitled to any and what compensation, whether by payment of money or reduction of rent, or both, or otherwise; And that, on the receipt of such requisition, and on proof of due notice thereof having been given to the lessor and other owners of such building, it shall be the duty of such official referees, and they are hereby required to proceed to ascertain if any and what loss has been so occasioned, and having regard as aforesaid to such terms and interest as aforesaid, and to such profit, benefit, or advantage as aforesaid, to determine if any and what compensation as aforesaid is to be paid in respect thereof, and by whom the same is

Buildings, New and Old.

Application to official referees.

Proceedings thereon.

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Buildings, New and Old.

to be paid, and in what proportions, and their decision in the matter shall be final.

11. Commissioners of works and buildings empowered to modify rules generally.

XI. And, for the purpose of preventing the express provisions of this Act from hindering the adoption of improvements, and of providing for the adoption of expedients either better or equally well adapted to accomplish the purposes thereof; Be it enacted, with regard to every building, of whatever class, so far as relates to the modification of any rules hereby prescribed, That if, in the opinion of the official referees, the rules by this Act imposed shall be inapplicable, or will defeat the objects of this Act, and that by the adoption of any modification of such rules, such objects will be attained either better or as effectually, it shall be the duty of such official referees to report their opinion thereon, stating the grounds of such their opinion, to the commissioners of works and buildings; And that, if on the investigation thereof it shall appear to the said commissioners that such opinion is well founded, then it shall be lawful for the said commissioners or any two of them to direct that such modification may be made in such rules as will, in their opinion, give effect to the purposes of this Act; And that, although such official referees shall be of opinion that such modifications are not requisite or admissible, yet if any party interested present to the official referees a representation setting forth the grounds whereon such modification is claimed, it shall be the duty of the official referees, and they are hereby required to report such representation, as well as their opinion thereon, to the said commissioners, with the grounds of such their report and opinion; And that thereupon, if the said commissioners think fit, it shall be lawful for them or any two of them to direct the official referees to make such order in the matter as may appear to them to be requisite.

Report of official referees.

Extent of modification.

Representation by parties.

Order thereupon.

12. Power to modify provisions of this Act as to existing buildings, to be rebuilt.

XII. And be it enacted, with regard to buildings already built, so far as relates to the rebuilding thereof in conformity with this Act, in respect of the required area, or in any other respect than the required height and thickness of walls, That if a full compliance with the provisions of this Act be attended by great loss and

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inconvenience, then, subject to the report of the official referees, and to the consent of the commissioners of works and buildings, and to such terms as the said commissioners may impose in that behalf, it shall be lawful for the parties concerned to rebuild such buildings on the site of the old buildings as near as may be practicable, but so that, nevertheless, both the party-walls and the external walls be of the required height and thickness.

Buildings, New and Old.

XIII. And be it enacted, with regard to the works to be executed in pursuance of this Act, so far as relates to the supervision thereof by the surveyors, That two days before the following acts or events; that is to say—

Builders.

13. Works to be executed. Notice to surveyors.

Before any building shall be begun to be built; and also,

Before any addition or alteration which by this Act is placed under the supervision of the surveyor, shall be made to any building; and also,

Before any party-wall, external wall, chimney-stack or flues shall be begun to be built, pulled down, rebuilt, cut into, or altered; and also,

Before any opening shall be made in any party-wall; and also,

Before any other matter or thing shall be done which by this Act is placed under the supervision of the surveyor; except as hereinafter is provided,

It shall be the duty of the builder (by which term is to be understood, both in this provision and elsewhere throughout this Act, the master-builder or other person employed to execute any work, or if there be no master-builder or other person so employed, then the owner of the building, or other person for whom or by whose order such work is to be done), and he is hereby required to give to the surveyor, at his office, notice in the terms specified in the form (No. 1.) contained in the schedule of notices annexed to this Act, or to the like effect; And that if any builder neglect to give such notice, or begin to build, or do any of the things

£20 penalty for neglect to give notice, &c.

The safest method of proceeding for all parties building is, to insert in the contract a condition as follows: "The building

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Builders.

aforesaid, before such notice, or before the expiration of such period of two days; then, in every such case, the party offending shall, for every such default, forfeit and pay to such surveyor, treble the amount of the fees which such surveyor would have been entitled to receive for his trouble in inspecting the same, and shall also forfeit for every such default, a sum not exceeding twenty pounds; And that if, for any period exceeding three months, any builder having duly begun any building, requiring compliance with the provisions of this Act, suspend the progress of such building, and again go on with the same; or if, during the progress thereof, the builder be changed; then, two days before such builder shall enter upon the performance of the work, it shall be the duty of such builder to give notice to the surveyor; and such notices must be in the terms specified in the forms (Nos. 2 and 3.) contained in the schedule of notices annexed to this Act, or to the like effect; and must be given to the surveyor, or left at the surveyor's office, in like manner as is required upon beginning any new building; And that if any builder make default or neglect to give or leave such notice, he shall forfeit for every such offence a sum not exceeding twenty pounds; And that if any such building, chimney or wall be begun to be built, pulled down, rebuilt, cut into or altered as aforesaid, or be proceeded with after any suspension of the progress thereof before such notice has been given; Or if such surveyor or the official referees be refused admittance to inspect the same premises, then such building or work shall be liable to be abated as a nuisance under the provisions herein contained: Provided always, that if by reason of any emergency any act, matter, or thing placed under the supervision of the surveyor be required to be done immediately, or before notice can be given to the surveyor, then it shall be lawful for the builder or any person to do such act, matter, or thing so requisite, but

to be built in strict conformity with the provisions of the Building Act, and all notices to be given, all legal, and other forms complied with, and all fees paid by the builder."

£20 penalty for not giving fresh notices.

Penalty for beginning without notice;

or refusal to admit surveyor.

Emergency.

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upon this condition, that within forty-eight hours after beginning to execute such work, notice thereof be given to the surveyor.

Buildings Generally.

14.

XIV. And be it enacted, with regard to such buildings and works, so far as relates to the supervision thereof, That if in building, pulling down, rebuilding, cutting into or altering any part of any building, or party-wall or external wall, or chimney-stack or flue, drains, cesspools, or any work or other thing be done contrary to or not conformably with the rules and directions of this Act, then forthwith it shall be the duty of the surveyor and he is hereby required to give forty-eight hours' notice, according to the form (No. 4.) in the schedule of notices, or to the like effect, to the builder, foreman or principal workman on the premises, to amend any such irregularity which he shall deem to have been committed; and forthwith, after the expiration of such notice, to proceed to inspect the work; And that, if the work be so far advanced that he cannot ascertain whether the irregularity has been committed or not, or exists or not, then it shall be lawful for him, and he is hereby empowered to order any work to be cut into, laid open or pulled down, which shall in his opinion prevent his ascertaining whether any such irregularity exists or not; And that if, within forty-eight hours, the builder to whom any such notice shall have been given, refuse or fail to amend any irregular work, or if any such builder, when ordered by the surveyor, refuse to cut into, lay open or pull down any work which shall in his opinion prevent his ascertaining whether such irregular work exists or not, then, as soon as conveniently shall be, it shall be the duty of the surveyor to give information thereof to the official referees; And that upon the receipt of such information, it shall be the duty of such official referees, and they are hereby required to proceed to hear the matter, and if any breach of the rules, regulations and directions of this Act be found to have been committed, or if there appear good reason to suppose any such breach has been committed and is concealed, then it shall be lawful for the official referees, and they are hereby

Supervision of works.

Notice of irregularities to builders and others.

To cut into works.

Amendment of works.

Proceeding thereon by official referees.

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Buildings Generally.

authorized to direct by their award that such building, party-wall, external wall, chimney-stack, flue or other thing, or such part thereof as they shall deem necessary, shall be amended, removed, cut into, laid open, or pulled down; And that all the costs, charges and expenses of the said work, and of the said application to the official referees, shall be borne by such party or parties as the official referees shall determine.

Costs.

15. Special supervision of first rate buildings of second class, and of buildings of third class.

XV. And now, for the purpose of making provision for the supervision of buildings of the first rate of the second or warehouse class, and of all buildings of the third or public-building class, (except the buildings hereinbefore excepted); Be it enacted with regard to every such building, so far as relates to the special supervision thereof, That when all the walls of any such building shall have been built to their full height, and all the timbers of the floors, roofs and partitions shall have been fixed, it shall be the duty of the architect or builder, and he is hereby required, to give notice thereof to the official referees, according to the form (No. 6.) in the schedule of notices, or to the like effect; And if the official referees be of opinion that such building is subject to the special supervision herein provided, then within seven days after such notice it shall be their duty to survey the said building; And that, if they approve of the same, then within seven days after such survey, to certify such approval under their hands to the architect or builder; Or that if any part of the walls, timbers, roof, or internal supports appear to such official referees defective, insufficient or insecure, then, within the said seven days after such survey, they are hereby required to give to such architect or builder notice of such parts as shall so appear to them defective, insufficient or insecure, which notice must be in writing; And that, upon the receipt of such notice, it shall be the duty of the said architect or builder, and he is hereby required to amend and strengthen such defective, insufficient or insecure parts; And that,

Notice to official referees.

If there be no architect or builder, then the owner of the building, or other person for whom or by whose order the work is done, must give this notice, (s. 13.)

Survey.

Approval.

Disapproval.

Amendment of defects.

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during or within a period of seven days after notice has been given to the official referees that such works have been amended, or strengthened as aforesaid, it shall be the duty of the official referees, and they are hereby required to inspect the same, or in default thereof the said parts may be covered up; And that, upon completion of every such building, it shall be the duty of the architect or builder to give fresh notice to the official referees, according to the form (No. 7.) in the schedule of notices, or to the like effect; And that thereupon, or within seven days after such notice, it shall be the duty of the official referees to survey the same; And that, if upon such survey it shall appear that such building has been built sufficiently strong, and is sufficiently set to be safe, then within fourteen days after such survey it shall be their duty and they are hereby required to certify accordingly, which certificate must be under their hands and the seal of office of registrar of metropolitan buildings; And that, until such certificate shall have been made, or until fourteen days after such survey shall have elapsed without the official referees having given notice in writing that they are not satisfied, it shall not be lawful to use such building for any purpose whatever, without the express authority in writing of the official referees under their hands and the seal of office of the registrar of metropolitan buildings; And that, if before the certificate of satisfaction shall have been made, or if such further fourteen days as aforesaid shall have elapsed without due notice being given in writing as aforesaid, any such building subject to special supervision shall be used for any purpose, without such express authority in writing, then, on conviction thereof before two justices of the peace, the occupier of such building, or other the person by whom such building shall be so used, shall forfeit for such offence a sum not exceeding two hundred

Buildings Generally.

Notice of completion.

New survey.

Certificate.

Prohibition of use.

Penalty.

Under s. 67 of the former act, which contained a similar provision, it was held that the penalty was recoverable only against the master builder, and not against the owner (*a*); but

(*a*) *Meymot* v. *Southgate*, 3 Esp. 223.

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Buildings Generally.

pounds, for every day during which such building shall be so used, without having obtained such certificate of satisfaction, or such express authority as aforesaid; And that, in determining the amount of any such penalty, it shall be the duty of the justices, and they are hereby directed to have regard to the size and character of the building and to the nature and extent of danger involved in the use of such building, and to the amount of profit which might be derived from such use thereof.

in the former act, the owner was not alluded to distinctly as in this (s. 13), and he would be held liable to the penalty under this section if he ordered the works, and there were no architect or master builder employed.

Justices to consider circumstances.

16. Special supervision of buildings in Schedule (B. Part I.)

XVI. And be it enacted, with regard to the buildings comprised in Schedule (B. Part I.) to this Act annexed, so far as relates to the supervision thereof, That before the builder begin to build the same, it shall be the duty of the architect or the builder and he is hereby required to give notice thereof to the official referees, and also, at the same time, to transmit for their inspection the plans, elevations and other drawings which have been made for the same; And that forthwith thereupon it shall be the duty of the official referees and they are hereby required to proceed to survey the situation of the intended building, with a view to ascertain whether such building can be erected on such situation with due regard to the security of the public; And that from time to time, during the progress of such building, it shall be the duty of such official referees and they are hereby directed to inspect the same with a view to ascertain the sufficiency thereof; And that if such building or any part thereof appear to such official referees defective, insufficient or insecure, then they are hereby required to give to such architect or builder notice of such parts as shall so appear to them defective, insufficient or insecure, which notice must be in writing; And that, upon the receipt of such notice, it shall be the duty of the said architect or builder, and he is hereby required to amend and strengthen such defective, insufficient or insecure parts; And that during or within a period of seven days after notice has been

Survey by official referees.

Occasional inspection.

Notice of deficiences.

Amendment of defects.

Approval by official referees.

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given to the official referees that such works have been amended or strengthened as aforesaid, it shall be the duty of the official referees, and they are hereby required to inspect the same, or in default thereof, the said parts may be covered up; And that, upon completion of every such building, it shall be the duty of the architect or builder to give fresh notice to the official referees; And that thereupon, or within seven days after such notice, it shall be the duty of the official referees to survey the same; And that if upon such survey it shall appear that such building has been built sufficiently strong, then it shall be their duty to certify accordingly, which certificate must be under their hands and the seal of office of registrar of metropolitan buildings; And that, until such certificate shall have been made, or until fourteen days after such survey shall have elapsed without the official referees having given notice in writing that they are not satisfied, it shall not be lawful to use such building for any purpose whatever, without the express authority in writing of the official referees, under their hands and the seal of office of the registrar of metropolitan buildings; And that if, before the certificate of satisfaction shall have been made, or if such fourteen days as aforesaid shall have elapsed without due notice in writing being given as aforesaid, any such building subject to special supervision shall be used for any purpose, without such express authority in writing, then, on conviction thereof before two justices of the peace, the occupier of such building, or other the person by whom such building shall be so used, shall forfeit for such offence a sum not exceeding one hundred pounds, for every day during which such building shall be so used without having obtained such certificate of satisfaction, or such express authority as aforesaid; And that, in determining the amount of any such penalty, it shall be the duty of the justices, and they are hereby directed to have regard to the nature and extent of danger involved in the use of such building, and to the amount of profit which might be derived from such use thereof.

Buildings Generally.

Notice of completion.

New survey.

Certificate.

Prohibition of use.

Penalty.

Justices to consider circumstances.

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Buildings Generally.

17. Entry on premises.

XVII. And be it enacted, with regard to buildings and works, so far as relates to the entry thereon for the supervision thereof, That, at all times during the progress of any operations in respect thereof within the meaning of this act, it shall be lawful for the surveyor, and for the official referees, and they are hereby respectively authorized to enter upon the premises upon which such operations have been commenced; And that if at any time whilst any building is in course of construction, demolition, alteration or re-construction, any person refuse to admit the surveyor, or the official referees authorized under this Act, during the customary working hours, to inspect such building, or any person refuse or neglect to afford such surveyor or official referee every assistance which may be reasonably required in and about such inspection, then in every such case, on conviction thereof, the party offending shall forfeit for every such offence a sum not exceeding twenty pounds; And that if at any time during such customary working hours the surveyor or the official referees be refused admittance to make inspection of any work, then for that purpose it shall be lawful for such surveyor or for such official referees, and they are hereby empowered, accompanied by a peace officer, to enter upon the ground, building and premises where the same shall be.

Refusal to permit inspection.

Forcible entry.

18. All buildings not according to this Act declared a nuisance.

XVIII. And for the purpose of more effectually enforcing the observance of the provisions of this Act, Be it enacted, with regard to any buildings, drains, timber buildings, chimneys and flues, party-walls, party-fence-walls, external walls and projections, and every other part of every building of every class, or rate of any class, which shall be hereafter built, rebuilt, enlarged or altered within the limits of this Act, contrary to the provisions hereof, so far as relates to the removal thereof, That if the same be not built, rebuilt, enlarged or altered in the manner and of the materials and in every other respect according to, and in conformity with, the several rules and directions which are in this Act particularly specified; And if any person build or begin to build, or cause the building or begin-

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ning to build, or alter or cause to be altered, or use or cause to be used any part of any ground or building, projection, drain or other thing contrary thereunto; and if, in either of such cases, it so appear by the certificate of the official referees; then the said building, projection, drain or other thing, or such part thereof so irregularly built or begun to be built, or so irregularly altered or begun to be altered, or so used, shall be deemed a nuisance; And that thereupon it shall be the duty of the surveyor, and he is hereby directed to summon the builder before any two justices of the peace; And that if, at the time and place appointed on such summons, such builder fail to appear, then it shall be lawful for the said justices, and they are hereby authorized to issue a warrant under their hands and seals to compel such builder to appear before such justices or any other two justices: And that thereupon it shall be the duty of such builder, and he is hereby required to enter into a recognizance in such sum as the said justices shall appoint, for abating and taking down the same within such convenient time as the said justices shall respectively appoint, or otherwise for amending the same according to such rules and directions as are herein contained, and also for paying the costs, charges and expenses incurred by the surveyor in laying the information and obtaining the conviction, including such compensation for the surveyor's loss of time as the said justices shall think fit; And that if the party so required fail to enter into such recognizance, then it shall be lawful for either of such justices or any justice, and they are hereby required to commit such builder to the common gaol of the city, county or liberty where the offence shall be committed, there to remain without bail or mainprize until he shall have entered into such

Buildings Generally.

Summons before justices.

Compulsory appearance.

Recognizances to pull down and amend.

Under s. 60 of the former statute the conviction before the justices must have been within three calendar months of the building having been completed, but though that period had expired without any conviction being had, yet the building was not rendered legal, but might still be proceeded against. (*Titterton* v. *Conyers*, 5 Taun. 465; 1 Marsh. 140.) This clause contains no such definite proviso with regard to time.

Imprisonment.

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Buildings Generally.

recognizance as aforesaid, or until such irregular building shall have been abated or demolished or otherwise amended, or such nuisance shall be abated or demolished by order of such justices respectively, (which order the said justices are hereby empowered to make,) and until the costs, charges and expenses thereof, and of all operations and proceedings in relation thereto, shall have been paid: And further, That if application be made to any two or more justices, then, thereupon, it shall be their duty, and they are hereby empowered to order the surveyor or any other person to abate or demolish such nuisance, and to order the persons authorized by them so to abate or demolish the same, to sell and dispose of the materials thereof, and, out of the moneys arising by such sale, to pay to themselves, and all persons by them employed for such purpose, the reasonable charges for abating or demolishing such nuisance, and also such costs and expenses as aforesaid, and to pay the surplus moneys arising by such sale (if any) to such owner of the building as the official referees shall determine to be entitled thereto; And that if the moneys arising by such sale be not sufficient to pay such charges, then it shall be the duty of the person entitled to the immediate possession of such building, or the occupier, to make good the deficiency subject to reimbursement as hereinafter provided; and if he fail, then he shall be liable to the same remedies for the recovery thereof as are by this Act provided concerning the expense of taking down ruinous buildings, and putting up hoards for the safety of passengers.

Removal of buildings declared nuisances.

Expenses.

19. Fifty shillings penalty on workmen offending.

XIX. And be it enacted, with regard to any building or work, so far as relates to the non-observance of the provisions of this Act in that behalf by workmen and others, That if any workman, labourer, servant or other person employed in any building, or in the alteration, fitting up or decoration of any building, wilfully and without the direction, privity or consent of the person causing such work to be done, do anything in or about such building contrary to the rules and directions of this Act, then upon conviction thereof before any two justices of the peace, upon the oath of one or more

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credible witness or witnesses (which oath the said justices are hereby empowered and required to administer), every such offender shall be liable to forfeit for every such offence a sum not exceeding fifty shillings; And that if upon or immediately after such conviction, any such forfeiture be not paid, then it shall be the duty of any two justices of the peace to whom application shall be made, to commit the offenders by warrant under the hand and seal of such justices to the common gaol for any term not exceeding one month, at the discretion of such justices.

Buildings Generally.

Imprisonment.

XX. And forasmuch as, from time to time, occasion hath arisen and will hereafter arise to execute the following works in relation to adjoining buildings and premises, parted by the same party-wall or party-fence-wall, but belonging to different owners, or occupied by different persons, or to buildings intermixed, belonging to different owners, or occupied by different persons; namely,—

Adjoining Properties.

20.

Party Walls. Party Fences. Intermixed Buildings.

Execution of works.

The reparation of the party-walls by which such premises shall be parted:

The pulling down and rebuilding of such party-walls:

The raising of such party-walls:

The reparation of party-fence-walls:

The rebuilding of such party-fence-walls:

The raising of such party-fence-walls:

The pulling down of timber partitions which part buildings, the property of different owners, or occupied by different persons, and building in lieu thereof proper party-walls:

The pulling down of buildings built over public ways, or having rooms or stories, the property of different persons, or occupied by different persons, lying intermixed, for the purpose of building proper party-walls or party-arches:

And generally the performance of other necessary works incident to the connection of such party-walls or party-fence-walls with the premises adjoining: It is expedient to make provision, as well for facilitating the execution of such works by any such owner desirous to execute

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Party Walls. Party Fences. Intermixed Buildings.

the same (who is herein denominated the "building-owner"); as for protecting the interests of the owner of the adjoining premises (who is herein denominated the "adjoining owner"); Now for that purpose, Be it enacted, with regard to all premises parted by a party-wall or party-fence-wall, or parted by timber partitions, and with regard to all intermixed properties not so parted, so far as relates to the execution of any such works by any owner of any such premises, That if the adjoining owner shall have consented thereto, or if, without such consent, the required notice of such work shall have been given by or on the part of the building-owner to such adjoining owner, then, subject to such modification as shall be made by virtue of the provision in that behalf; and subject to the provision for supplying the want of consent of the owners; and subject moreover to the respective conditions hereby prescribed, with regard to such works respectively, as well as to the payment of the costs of such works, and to the sanction or to the award of the surveyors or of the official referees, as hereby prescribed in reference thereto, it shall be lawful for every such building-owner and he is hereby authorized or required to execute such works.

A public Building Act is not to be deemed to be superseded or suspended by any local act. When therefore, a Company duly authorized by act of parliament had pulled down a house adjoining to that belonging to the plaintiff, and on finding the party-wall deficient, had given the usual notice, &c., it was held that the plaintiff had no right to compensation as for an injury sustained under the operation of the local act.—*Rex* v. *Hungerford Market Company*, 2 N. & M. 340.

21. Consent of, or notice to, adjoining owner.

XXI. And be it enacted, with regard to such works, so far as relates to the notice thereof, That unless the adjoining owner consent thereto, it shall not be lawful for the "building-owner" to execute such works, until he have given notice thereof to such "adjoining owner;" And every such notice, with regard to the pulling down, rebuilding or repairing of party-walls

With respect to this notice, it is not necessary where there are several "owners" of intermediate improved rents, &c. to serve them all. A notice served on the receiver of the rack-rent—

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or party-fence-walls, must be given three months, at the least, before the work is to be commenced; And every such notice, with regard to the pulling down and rebuilding intermixed walls and timber partitions, must be given three months, at the least, before such work is to be commenced; And every such notice must be in the form or to the effect of the notice (No. 8.) for that purpose contained in the schedule of notices hereunto annexed.

that is on the immediate landlord of the occupier—will be sufficient (s. 112). And the occupier is moreover bound to furnish the name and residence of such landlord, when required so to do (s. 112).

Party Walls. *Party Fences.* *Intermixed Buildings.*

22. Modification of work to suit adjoining owner.

XXII. And be it enacted, with regard to every such work, so far as relates to the modification thereof, in order to render it suitable to the premises of the adjoining owner or his tenant, That if the adjoining owner, at any time within two months after the receipt of the said notice from the building-owner, give notice of his desire that any modification be made in the work so as to render it suitable to his premises, according to the form (No. 18.) in the schedule of notices, or to the like effect, then, within seven days after the receipt of such notice, it shall be the duty of the building-owner, and he is hereby required, to signify his consent to, or dissent from, such modification or delay; And that if the building-owner dissent from or do not within such seven days signify his consent to such modification, then it shall be lawful for the adjoining owner, and he is hereby entitled, to require the building-owner not to commence the work until the official referees shall have determined thereon; And that if within seven days thereafter application be made in writing to the official referees, according to the form (No. 19.) in the schedule of notices, or to the like effect, and notice thereof be given to the building-owner, according to the other form (No. 20.), then, within ten days after such application, it shall be the duty of the official referees to signify their decision thereon, and it shall be the duty of the building-owner not to commence the work till the decision of such official referees shall have been given; And that if, within the period of three months from the date of the

Modification of operations.

Application to official referees.

Authority to build.

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Party Walls. Party Fences. Intermixed Buildings.

first notice, such adjoining owner do not make any objection or any requisition in conformity with this enactment, then, subject to the provisions of this Act with regard to such works, it shall be lawful for the building-owner, and he is hereby authorized to proceed to execute the same.

23. Delay of work to suit adjoining owner.

XXIII. And be it enacted, with regard to every such work, so far as relates to the modification thereof, in order to render it suitable to the premises or to the convenience of the adjoining owner or his tenant, That if the adjoining owner at any time within three months after the receipt of the said notice from the building-owner, give notice of his desire that the work be delayed, so as to cause it to be executed at a more seasonable or a more convenient time in reference to the business, or to the family or domestic arrangements of such adjoining owner or his tenants, according to the form (No. 18.) in the schedule of notices, or to the like effect; then, within seven days after the receipt of the notice thereof, it shall be the duty of the building-owner, and he is hereby required to signify his consent to, or dissent from, such modification or delay; And that if the building-owner do not within such seven days signify his consent to such modification or delay, then it shall be lawful for the adjoining owner, and he is hereby entitled, to require the building-owner to delay the work until the official referees shall have determined thereon; And that if within seven days thereafter application be made in writing to the official referees, according to the form (No. 19.) in the schedule of notices, or to the like effect, and notice thereof be given to the building-owner, according to the other form (No. 20.), then within ten days after such application it shall be the duty of the official referees to signify their decision thereon, and it shall be the duty of the building-owner to delay the same till the decision of such official referees shall have been given; And that if, within the period of three months from the date of the first notice, such adjoining owner do not make any objection or any requisition in conformity with this enactment, then, subject to the provisions of this Act

Delay of operations.

Application to official referees.

Authority to build.

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with regard to such works, it shall be lawful for the building-owner and he is hereby authorized to proceed to execute the same. *Party Walls. Party Fences. Intermixed Buildings.*

XXIV. And be it enacted, with regard to any such works hereby authorized to be done in relation to party-walls, party-arches, party-fence-walls, or other such structures, belonging to the owners of adjoining buildings or parting adjoining premises, so far as relates to supplying the want of consent of the adjoining owners, That if the adjoining premises be unoccupied, or if the owner thereof cannot be found, or if the owner, although found, cannot, by reason of legal disability or otherwise, consent to the work, or if the owner will not consent thereto, or if differences arise amongst the parties concerned, then the notice required to be given in respect of such work must be served both on the surveyor and on the official referees, in addition to such other parties entitled to notice under this Act upon whom such notice can be served, which must be according to the form (No. 9.) in the schedule of notices, or to the like effect; And that forthwith, on the receipt of such notice, it shall be the duty of the surveyor and he is hereby required to give notice to the parties by whom such work is to be executed, and to any one or more surveyors or other agents by them appointed, as to the day and hour when he will view the premises, according to the form (No. 10.) in the schedule of notices, or to the like effect; and at such time it shall be the duty of the surveyor of the district and he is hereby authorized to proceed to inspect such premises accordingly, and to certify to the official referees,

24. Supplying want of consent of adjoining owners.

Notice of inspection by surveyor.

First, Whether such work ought to be done or not; and

Secondly, If the same ought to be done, whether it ought to be done in the proposed manner; and

Thirdly, The site whereon the party-wall should be built; and with regard to intermixed buildings, what party-arches may be necessary over or under any rooms of such buildings so intended to be rebuilt; and

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Party Walls. Party Fences. Intermixed Buildings.

Fourthly, The quantity of the soil or ground or other parts of the premises (if any) necessary to be laid to or taken from the house of the person desirous to rebuild, to the house of the person permitting him to erect a party-wall or party-arch; and

Fifthly, The compensation (if any) which should be made and paid by either the building-owner, or the adjoining owner, to the other in lieu of the lessening either of the said buildings by such party-wall or party-arch, or as a satisfaction for such other injury (if any) as shall be done or occasioned thereby to any of the said parties;

The "building-owner" is still bound to pay all expenses, even although the consent of the adjoining owner is obtained by compulsion.

Notice to parties.

And that, upon the receipt of such certificate, it shall be the duty of the official referees, and they are hereby required, to cause notice thereof to be given to the parties or to such of them as are known; And that if within seven days after such notice to the parties, the certificate be not appealed against, and if the official referees be of opinion that the work is proper to be done, and the compensation is fair, then it shall be lawful for the official referees to confirm such certificate, and to authorize the building-owner to proceed with the works, as if the consent of the adjoining owner had been obtained; And that if any party concerned shall appeal against the certificate of the surveyor as to the work to be done, or as to the compensation, or as to any other matter referred to in such certificate, in pursuance of the above provisions, then it shall be the duty of the official referees, and they are hereby required to appoint one of their number to survey the building in question; And that for that purpose it shall be the duty of the official referee so appointed, and he is hereby required to give notice to the parties, and to any one or more surveyors or other agents by them appointed, as to the time when he will view the premises; And that at such time it shall be the duty of such referee, and he is hereby authorized to view such premises

Confirmation by official referees.

Proceedings on appeal against certificate.

Notice by official referees.

Survey.

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accordingly, and to inquire into the matters appealed against, and to certify to the official referees his opinion thereon; And that, upon such certificate being made, it shall be lawful for the official referees to make their award, thereby either confirming, or reversing or modifying, as to them the case may seem to require, the certificate of the surveyor, and appointing by whom and in what proportions the expenses of the surveys and of the reports thereon are to be paid; and such award shall be final and conclusive; And with regard to any works by such award authorized, so far as relates to the proceedings of the building-owner, That if, upon the making of the award, the periods of the notices by this Act prescribed with regard to works of that nature have elapsed, then immediately upon the making of the award, but if such periods have not elapsed, then as soon after the making of the award as such periods shall have elapsed, it shall be lawful for the building-owner, his agents, servants and workmen, to proceed to execute the works.

Party Walls. Party Fences. Intermixed Buildings.

Award.

Works authorized.

XXV. And be it enacted, with regard to any party-wall, party-arch, or external wall used wholly or in part as a party-fence-wall, so far as relates to the reparation and rebuilding thereof, at the joint expense of the owners of the buildings parted thereby, That if such party structure be so defective or so far out of repair as to render it necessary to pull down and rebuild the same, or any part thereof, then, on notice being given by the owner of one of the buildings to the adjoining owner, according to the form (No. 8.) in the schedule of notices, or to the like effect, it shall be lawful for the building-owner to require a survey, certificate and award authorizing the execution of such reparation or rebuilding, according to the provisions hereinbefore contained in that behalf.

25. Reparation and rebuilding at joint expense.

But if the wall be not so ruinous as to require immediate repair or rebuilding, and if the official referees do not certify to that effect, the expense must be borne altogether by the party requiring such repair or rebuilding.

XXVI. And be it enacted, with regard to sound party-walls, so far as relates to the rebuilding thereof, at the expense of the building-owner, That if the owner

26. Rebuilding of party-walls.

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Party Walls. Party Fences. Intermixed Buildings.

of one of the buildings desire to rebuild such party-wall, then, on giving to the adjoining owner the required notice of three months, according to the form (No. 14.) in the schedule of notices, or to the like effect, it shall be lawful for such building-owner, and he is hereby entitled to pull down and rebuild such party-wall; but upon condition that he do reinstate and make good all the internal finishings and decorations of the adjoining premises, and pay all the costs and charges thereof, and also all the expenses incidental to the execution of the work, including therein the fees and expenses of the survey, and the fees of the surveyors and any fees in respect of any services performed by the official referees, and also such reasonable compensation as to the said official referees may seem proper for any loss which the adjoining owner shall have incurred by reason of such work.

27. Rebuilding a party-wall.

XXVII. And be it enacted, with regard to any party-wall so far as the rebuilding thereof, That if the owner of one of the buildings parted by such party-wall no build such building of a higher rate, and do not pull down such party-wall and build a proper wall in lieu thereof, then it shall be his duty, and he is hereby required, to build up an external wall against such party-wall.

Building of an external wall against a party-wall.

28. amage arising from erection of external wall against a party-wall.

XXVIII. And be it enacted, with regard to an external wall built against a party-wall, so far as relates to the operations incident thereto, and to the making good any damage occasioned thereby, That if it be necessary to excavate or dig out the ground against the wall of any adjoining building, for the purpose of erecting a wall thereon, or for any other purpose, then it shall be lawful for the building-owner and he is hereby entitled so to do; but upon condition that the said building-owner do, at his own costs, shore up and underpin such wall, or such part thereof, to its full thickness, and to the full depth of such excavation, with good sound

If the "adjoining owner," or occupier, employ workmen to shore up his own house, it would appear that he does so at his own risk and expense,(a) unless he can prove that the shoring, &c.

(a) *Robinson* v. *Lewis*, 10 East, 227.

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stock-bricks and tiles or slates bedded in cement, or with other proper and sufficient materials; such underpinning to be done in a workmanlike and substantial manner; And that if, for the purpose of erecting such external wall, it be necessary to cut away part of the footings of such party-wall on the side next to the wall so to be built, and any part of the chimney-breasts and chimney-shafts belonging to the building about to be rebuilt, as shall project beyond the perpendicular face of such party-wall, in the lowest floor thereof, then, on giving notice of such intention in writing to the owner of the adjoining building, at least one month before commencing operations, according to the form (No. 15.) in the schedule of notices, or to the like effect; and on the expiration of such notice, it shall be lawful for the building-owner and he is hereby authorized to cut away such portion of the footings, breasts and chimney-shafts aforesaid; but so that the same be done, and the brick-work where cut be again made good in cement, under the superintendence and to the satisfaction of the surveyor.

of the building-owner be insufficient, and this it would seem can only be done by reference to the district surveyor, or the official referees. But the building-owner is clearly liable for all damage arising from improper shoring, &c., on his part. And further, it would appear that the compensation for such damages would go to the lessee under covenant to repair, or to the lessor in default of any covenant; but in either case, such compensation must be expended on the purpose for which it is awarded.

Party Walls. *Party Fences.* *Intermixed Buildings.* Cutting into footings and chimneys.

29. Making good such damage.

XXIX. Provided always, and be it enacted, with regard to such party-wall, so far as relates to the making good of any such damage, That if it be so damaged and injured by such cutting away, as in the opinion of the adjoining owner or occupier to be ruinous or dangerous, then, upon application for that purpose, it shall be the duty of the surveyor, and he is hereby required to survey such wall; And if upon the survey thereof it be found ruinous or dangerous, then to condemn it; And that, thereupon, it shall be the duty of the building-owner to pull down and rebuild such party-wall; And that if, in the opinion of the surveyor or of the official referees, such damage or injury

Survey.

Damage from carelessness.

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Party Walls. Party Fences. Intermixed Buildings.

shall have been occasioned by want of due care on the part of the building-owner, then it shall be the duty of such building-owner and he is hereby required to pull down and rebuild such party-wall; and that at his own costs and charges, including therein all the costs and expenses incident to such survey, and the pulling down and rebuilding of such party-wall, and the reinstating and making good all the internal finishings and decorations damaged thereby; And that if the owner of the building to be rebuilt do not proceed with all due despatch to pull down and rebuild such party-wall, and to reinstate and make good all the internal finishings and decorations of the adjoining premises, and to pay the costs and charges and expenses of the survey, then it shall be lawful for the adjoining owner so to do, and he is hereby entitled to recover all the costs and expenses in respect thereof from such owner, his heirs, executors, administrators or assigns.

Rebuilding.

30. Rebuilding of sound party-walls.

XXX. And be it enacted, with regard to any sound party-wall against which an external wall shall have been built, and which shall have been suffered to remain so far as relates to the rebuilding thereof, That if, while such party-wall continues sound, the adjoining building be pulled down or rebuilt, and such party-wall be pulled down, then the owner of such adjoining building shall not be entitled to more than his just proportion of the materials thereof, nor to more than his just proportion of the ground on which such party-wall was built, nor shall he build on more than his just proportion of the said ground, unless he shall have agreed with and satisfied the owner of the building so previously rebuilt for his half thereof; And that if the said owners cannot agree concerning the division of such materials, or of such ground, or of the building thereon, or concerning the reimbursement of the party first rebuilding as aforesaid, then the price and all matters in difference, including the sale and purchase of the ground in question, shall be settled by a reference to the official referees, whose award shall be final.

Reference to official referees.

31. Raising of future buildings.

XXXI. And be it enacted, with regard to every building hereafter built, so far as relates to the raising

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thereof, That it shall be lawful to raise any building, but so that, nevertheless, the party and external walls and chimneys thereof, when so raised, be of the materials and of the several heights and thicknesses hereinbefore described for party and external walls and chimneys of the rate such building shall be of when so raised; And with regard to buildings already built, so far as relates to the raising thereof, that, although the walls of such buildings be not of the thicknesses prescribed by this Act, if, in the opinion of the surveyor, such walls be sufficiently secure to allow of the raising thereof, then it shall be lawful to raise any such building already built to an additional height, not exceeding ten feet; And with regard to any building adjoining one which shall be raised, so far as relates to the raising of the chimneys thereof, that if any building be raised, it shall be the duty of the owner of such building, and he is hereby required to build up, at his own expense, the party-walls between his own and any adjoining building, and all flues and chimney-stacks belonging thereto; And with regard to any building raised, so far as relates to the use thereof by the adjoining owner, that if at any time the owner of any such adjoining building make use of any portion of the part raised of such party-wall by building against it, or otherwise it shall be lawful for the owner of the premises so first raised, to claim, and he is hereby entitled to recover the cost of a proportionate part of the portion which shall be so used, together with the cost of such parts of the chimney-stacks as belong thereto.

Party Walls. *Party Fences.* *Intermixed Buildings.* — Existing buildings. Chimneys of adjoining buildings. Use of raised buildings.

XXXII. And be it enacted, with regard to party-fence-walls, by which term is to be understood any boundary-wall parting the grounds belonging to different owners, or occupied by different persons, so far as relates to the reparation and rebuilding and raising thereof, That if the owner of any of the premises parted thereby give one month's notice of his intention to the adjoining owner to repair, pull down and rebuild the same, it shall be lawful for him so to do; and if the wall be below the height of nine feet from the ground on either side, then either to raise it to that height, or

32. Repairing and rebuilding of party-fence-walls.

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Party Walls. Party Fences. Intermixed Buildings.

to pull it down and to rebuild it to that height; but upon condition that he do pay all the expenses thereof; And that if a building be to be erected against such party-fence-wall, and such wall be not conformable to the requisites prescribed for a proper party-wall for a building of that class and rate, then it shall be lawful for the building-owner, and he is hereby entitled to pull down such party-fence-wall; but upon condition that he do pay all the expenses thereof; and also that he do make good every damage which shall accrue to such adjoining premises by such rebuilding: Provided always, with regard to the expense of so pulling down such party-fence-wall, and rebuilding the same, That if thereafter the adjoining owner use such party-fence-wall for any purpose to which, if it had not been pulled down and rebuilt, it would not have been applicable, then to such extent as such adjoining owner shall so use such wall, the building-owner shall be entitled to be reimbursed the expenses of so pulling down and rebuilding such wall: Provided also, with regard to any such party-fence-wall, so far as relates to the limitation of the height thereof, That if any party desire to raise such wall so as to screen from view any offensive object or neighbourhood, then on application to the official referees, it shall be lawful for them to authorize such work, but not so as to obstruct the free circulation of the air, or to injure the property adjoining to or in the neighbourhood of such wall.

Deficient party-fence-wall.

Reimbursement of expense of operations.

Limitation of height of screen walls.

33. Pulling down party timber partitions.

XXXIII. And be it enacted, with regard to the party timber partitions of existing buildings belonging to different owners, so far as relates to the pulling down thereof, and any wall under or over the same, That if one of the buildings be rebuilt, or if one of the fronts of any such building be taken down to the height of one story, or for a space equal

That is to say, of existing buildings subject to the provisions of leases granted before the coming into operation of this act. The responsibilities of the various parties to leases granted subsequently to the 1st January, 1845, are clearly set forth in sect. xlix. p. 57. It is, therefore, important to consider here, how owners in various degrees will be bound to contribute their several pro-

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to one-fourth of such front from the level of the second floor upwards, then, without the consent of the adjoining owner, but upon giving the requisite notice, according to the forms, (Nos. 11, 12, 13.) in the schedule of notices, or to the like effect, it shall be the duty of the building-owner, and he is hereby required, to pull down such timber partitions, and the walls under or over the same, and in lieu thereof to build a proper party-wall; and that at the expense of the owners of all the premises parted thereby.

Party Walls.
Party Fences.
Intermixed Buildings.

portions, or how they will be absolved. The law in this respect is clearly laid down in many cases arising out of the late act, and these may by analogy be safely adopted as precedents under the present statute.

The owner of the improved rent, not of the ground rent, is liable to pay the expenses of a party-wall (*a*). But where there is no improved rent, or, in other words, no transfer, the freeholder building on his own ground, then he becomes the "owner" to the full extent and meaning of this clause, and being lessor of the house at a rack-rent (there being no other person entitled to any kind of rent) is liable to contribute to the expenses of a party-wall under the statute, though the lessee has improved the house demised (*b*).

In like manner a lessee for twenty-one years at a peppercorn rent for the first half year, and a rack-rent for the rest of the term, who, by agreement, was to put the premises in repair, and covenanted to pay the land tax, and all other taxes, rates, assessments, and impositions, having assigned his term for a small sum in gross, was held not to be liable to pay the expense of a party-wall, either by the provisions of the statute, for he was not the owner of an improved rent, or by the covenant; therefore that charge must in such case be borne by the original landlord (*c*). Although, if a large sum (as 300*l.*) were paid to an original lessee for a lease, he would be liable (*d.*)

This enactment was intended to throw that burden on persons to whom long leases had been granted, with a view to an improvement of the estate, and who afterwards underlet at a considerable increase of rent (*e*).

The assignee of the lessee of premises, at a fixed rent, which he (the assignee) considerably improved, and thereby rendered of greater annual value, is not the owner of the improved rent within the statute, so as to render him liable to expenses of party-

(*a*) *Peck* v. *Wood*, 5 T. R. 130.
(*b*) *Beardmore* v. *Fox*, 8 T. R. 214.
(*c*) *Southall* v. *Ledbetter*, 3 T. R. 458.
(*d*) *Stuart* v. *Smith*, 2 Marsh, 435; 7 Taun. 158; Holt, 321.
(*e*) *Southall* v. *Ledbetter*, *sup.* Ashurst, J.

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Party Walls. *Party Fences.* *Intermixed Buildings.*

walls (*f*). But if the lessee of a house at a rack-rent, underlets it at an advanced rent, he is liable to contribute to the expenses of a party-wall built under the statute; nor is the operation of the statute at all varied by any covenants to repair entered into between the landlord and his tenant (*g*).

A tenant re-building a house without a lease, or agreement for a lease, and making use of the adjoining party-wall, is not the party liable to pay for the same as owner of the improved rent, nor can he be sued as such, even although he afterwards obtain in consideration of the re-building, a beneficial lease at a low ground rent dated previously to such re-building (*h*).

A. having taken a lease of land from *B.*, entered into an agreement with *C.*, that he should be employed by him (*A.*), to build certain houses, he (*C.*), taking such houses again from *A.* at a rent of 20*l.* per annum: *A.* was held liable to contribute to the party-wall to which the houses were attached (*i*).

A lessee covenanting to pay a reasonable proportion of supporting and repairing all party-walls, &c., and to pay all taxes, duties, assessments, and impositions, parliamentary and parochial, is liable under this statute (*j*).

An executor or administrator may be liable under this statute as the owner of the improved rent, even though he has no other assets than the improved rent (*k*). And, therefore, in an action to recover expenses incurred under the Act, a plea, that the defendant is only entitled to the improved rent as executor, and that bonds are outstanding, and *plene administravit præter* a sum insufficient to pay the demand, was held bad on demurrer (*l*).

The owner of an improved rent was not entitled to compensation for the use of a party-wall under 14 Geo. III. Therefore, where a tenant of premises having built a party-wall thereon, let a portion of them upon a building agreement for 50*l.* a year, and the sub-tenant built a house on his part of the ground, and in so doing made use of the party-wall,—the agreement containing no stipulation in case of this being done,—and eventually underlet the house, when finished, at a rent exceeding 50*l.*:—Held, that the original tenant was not entitled to compensation from his lessee, under the statute, for the use of the party-wall, since he himself, and not the sub-tenant, was the owner of the improved rent within that clause (*m*).

Where a very old house is demised, with the usual covenants to repair, it is not meant that the house should be restored in an

(*f*) *Lamb* v. *Hemans*, 2 B. & A. 467.
(*g*) *Sangster* v. *Birkhead*, 1 B. & P. 303.
(*h*) *Taylor* v. *Reed*, 6 Taun. 249.
(*i*) *Collins* v. *Wilson*, 4 Bing. 551; 1 M. & P. 454.
(*j*) *Barrett* v. *Bedford* (*Duke*), 8 T. R. 602.
(*k*) *Thackar* v. *Wilson*, 4 N. & M. 659; 3 Ad. & E. 142.
(*l*) *Wilcox* v. *Newman*, 1 Chit. 132.
(*m*) *Williams* v. *Pocklington*, 2 B. & Ad. 886.

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improved state (*n*). Therefore, under the compulsory clauses of this Act, such a tenant would not be held liable for the expenses of a party-wall, as that is deemed an improvement by the Act. If the plaintiff bring an action on a general covenant to repair a messuage, and assign a breach thereof, whereby he was put to expense, it is sufficient for a tenant to plead performance of all, except as to the repairs of a party-wall, and that these repairs were rendered necessary by and were done under the statute, and moreover did not become necessary by the defendant's default, and that the defendant was not the owner of the improved rent; and if the plaintiff is possessed of any facts to charge the defendant with a proportion of the repairs, he ought to reply them (*o*). *Party Walls.* *Party Fences.* *Intermixed Buildings.*

Where *A.*, a builder, proposed to *B.*, the occupier of an adjoining house, to build a party-wall, and stated the expense; *B.* answered, "Very well, I expect to pay what is right and fair," and the wall was built:—Held, that *A.* was entitled to recover from *B.*, his share of the expense, without reference to the statute (*p*). Probably, under the statute, had it been necessary to have had recourse to it, he would not have been able to recover, from a neglect of the required preliminaries.

A written consent of the owner under this Act will be the safest, both on account of the certainty of such a document and its facility of proof.

34. Pulling down intermixed buildings.

XXXIV. And be it enacted, with regard to buildings built over public ways, or having rooms or stories, the property of different persons, lying intermixed (except inns of court hereinafter provided for), so far as relates to the pulling down and laying the parts thereof to each other, That if a party-wall or party-arch cannot be built without pulling down such buildings, and so laying parts thereof to each other, and if, in default of the consent of all proper parties, the official referees authorize such works, then it shall be lawful for the owner of either of the said buildings to execute the same; but so that the party-walls or party-arches be conformable to the provisions of this Act, and the directions of the said official referees in their award made in that behalf.

35. Inns of courts, chambers, &c.

XXXV. And be it enacted, with regard to the rooms or chambers in the inns of court, (that is to say) in Serjeants' Inn, Chancery Lane, or in any of the four inns of court, or in any of the inns of chancery, or

(*n*) *Gutteridge* v. *Munyard*, 7 C. & P. 129; 1 M. & Rob. 334.
(*o*) *Moore* v. *Clark*, 5 Taun. 90.
(*p*) *Stuart* v. *Smith*, 2 Marsh. 435; 7 Taun. 156; Holt, 321.

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Party Walls. Party Fences. Intermixed Buildings.

any other inns set apart for the study or practice of the law, and with regard to other buildings divided into rooms or chambers, offices or counting-houses, let out or to be let in separate suites or sets, so far as relates to the building of party-walls, That the walls or divisions between the several rooms and chambers in such inns, or such buildings, belonging to and communicating with each separate and distinct staircase, shall be deemed to be party-walls within the meaning of this Act and as such must be built in conformity with the regulations and clauses herein contained relating to party-walls.

36. Power of of entry on premises to effect works.

XXXVI. And for the purpose of facilitating and regulating the execution of any works authorized by this Act, or by any award in pursuance thereof, in respect of any party-wall or party-arch, parting the buildings or grounds belonging to different owners, or in the occupation of different persons, or in respect of intermixed buildings; Be it enacted, with regard to any such works, so far as relates to the power to enter the adjoining premises in order to execute the same, That if such work have been duly authorized, either by the consent of the parties competent to give such consent, or by the award or certificate of the official referees, then, at any time between the hours of six in the morning and seven in the afternoon (Sundays excepted), it shall be lawful for the building-owner, or any other person acting in his behalf, accompanied by a constable or other officer of the peace, and they are hereby respectively empowered, to enter on the premises of the adjoining owner, so far as may be necessary for executing such work; And that if the outer-door of such building be shut, and being thereunto required, the person therein refuse to open the same, or if such building be empty and unoccupied, then it shall be lawful to break open such outer-door; and if any fixtures, goods, furniture or other thing obstruct the building of such intended party-wall or party-arch, or the pulling down any wall, partition or other thing necessary to be pulled down and removed in order to the building such intended party-wall or party-arch, then

Opening doors and removal of goods, &c.

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to remove such fixtures, goods, furniture and things to some other part of the same premises, or if there be no room on the premises sufficient for that purpose, to remove them to some other place of safe custody; And that from and after such entry, and at all usual times of working, it shall be lawful for the builder employed to erect such intended party-wall or party-arch, and for his servants and all others employed by him, to enter into and upon the premises, and abide therein the usual times of working, as well for the shoring up of the said building so broken into and entered upon, and for taking down and removing any party-wall, partition, wainscot or other thing necessary to be taken down and removed for the purpose aforesaid, as to build such intended party-wall or party-arch; and that if in any manner any such owner or other person hinder or obstruct any workman employed for any of the purposes aforesaid, or wilfully damage or injure the said works, then every such person so offending shall forfeit for every such offence a sum not exceeding ten pounds.

Party Walls. Party Fences. Intermixed Buildings.

Continuance of entry.

Penalty for hindrance.

37. Stopping of openings in external walls abutting on other premises.

XXXVII. And now, for the purpose of further protecting the interests of adjoining owners, be it enacted, with regard to external walls adjoining the ground or building of another owner, so far as relates to the making of openings therein, That if, without the consent in writing of the owner of such ground or building, any opening be made in any such wall, then it shall be lawful for such owner, and he is hereby entitled, to require the owner of the premises in which such opening shall be made to stop up the same with brick or stone-work, as the case may be, according to the form (No. 5.) in the schedule of notices, or to the like effect; And that if, within one month after such notice, such stoppage be not effected, then it shall be lawful for such owner, and he is hereby entitled, either

By the 2 & 3 Will. IV. c. 71, s. 3, it is enacted, "That when the access and use of light to and for any dwelling-house, workshop, or other building shall have been actually enjoyed therewith, for the full period of twenty years without interruption, the right thereto shall be deemed absolute and indefeasible, any local usage or custom to the contrary notwithstanding, unless it shall appear that the same was enjoyed by

Stoppage thereof.

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Party Walls. Party Fences. Intermixed Buildings.

by himself or his workmen, with tools, implements and materials, to cause such openings so to be stopped, and he is also hereby entitled to be repaid the costs thereof; And with regard to such costs, so far as relates to the adjustment thereof, That if such owner refuse to make payment thereof, or if there be any dispute as to the amount thereof, then, on application for the purpose to the official referees, by either of the parties concerned, it shall be lawful for the person by whom they have been incurred, and he is hereby entitled, to refer the matter of such dispute to the official referees, and to have their determination thereon; And that it shall be the duty of such official referees to give to the applicant a certificate in relation thereto; And that if any party liable to pay any sum of money under such certificate fail to do so, then it shall be lawful for the party entitled to such costs to recover the same, in the manner hereinafter provided for the recovery of the costs, charges, and expenses of executing any works in pursuance of this Act.

Costs of stopping-up.

Certificate of official referees.

Recovery of costs.

38. Building of party-walls next vacant ground.

XXXVIII. And be it enacted, with regard to walls, so far as relates to the building thereof on vacant ground at the line of junction of premises belonging to different occupations, That one month before the owner of any piece of vacant ground, or ground not hitherto built upon, shall build any building adjoining to another piece of

If two persons have a party-wall one half of the thickness of which stands on the land of each, they are not therefore tenants in common of the wall or of the land on which it stands, although the wall was erected at the joint expense of the two proprietors. The property in a wall erected

some consent or agreement expressly made or given for that purpose by deed or writing." By the next section this period of twenty years "shall be deemed and taken to be the period next before some suit or action wherein the claim or matter to which such period may relate shall have been or shall be brought into question, and that no act or other matter shall be deemed to be an interruption, within the meaning of this statute, unless the same shall have been, or shall be submitted to, or acquiesced in, for one year after the party interrupted shall have had, or shall have notice thereof, and of the person making or authorizing the same to be made."

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vacant ground, or ground not hitherto built upon, or build a fence-wall for such piece of ground, it shall be his duty, and he is hereby required to give to the owner or occupier of such adjoining vacant ground, a notice, which must be in writing, and must set forth his desire to build a party-wall or party-fence-wall, and describe the thicknesses and dimensions of such desired party-wall or party-fence-wall, according to the form (No. 16.) in the schedule of notices, or to the like effect; And that if, within such period of one month, such adjoining owner shall signify his consent in writing, then the same must be built partly on the ground of one of the said owners or occupiers, and partly on the ground of the other owner, and such last-mentioned part is to be paid for as is hereinafter directed by such other owner or occupier; but if he do not signify such consent, then it shall be the duty of the building-owner to build an external wall for such building, and fence-wall for such ground, entirely upon his own ground, except as to the footings of any such wall.

Party Walls. Party Fences. Intermixed Buildings.

at a joint expense follows the property of the land whereon it stands, and if one proprietor adds to the height of such a party-wall, and the other pulls down the addition, the first may maintain trespass for pulling down so much of it as stood on the half of the wall which was erected on the plaintiff's soil. (*Matts* v. *Hawkins*, 5 Taun. 20.) In declaring in such an action, it is desirable to remember that the one-half wall is the abuttal of the other half wall, because they are in law two walls; and if the half wall, in respect of which the plaintiff seeks to recover, is described by abuttals which are appropriate only to the outer wall his action must fail.—*Murly* v. *M'Dermott*, 3 N. & P. 356; *S. C.* 8 A. & E. 138.

Consent of adjoining owner.

These external walls cannot ever be made into party-walls without the consent of the first builder. Nor can the adjoining owner join on to, nor in any manner use these external walls without the consent of the first builder; and even tendering compensation to him for their use, according to the provisions of the late act, will not avail under this, as the first builder is not bound to accept of such compensation, but by this section can oblige the second builder to build his own external and independent wall wholly on his own ground.

XXXIX. And be it enacted, with regard to any new

39. Building of

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Party Walls. Party Fences. Intermixed Buildings.

party-wall, built on the line of junction of premises belonging to different owners, so far as relates to the providing of chimney-breasts and other accommodation for the adjoining owner, That when the owner of any piece of vacant ground shall have obtained the consent of the adjoining owner to build a party-wall on the line of junction of their respective premises, then, ten days at the least before beginning to build such party-wall, it shall be the duty of the building-owner to give the adjoining owner notice thereof, according to the form (No. 16.) in the schedule of notices, or to the like effect; And that if in due time the adjoining owner shall give instructions in writing, or by a plan and elevations or other sufficient drawings, then it shall be the duty of the building-owner to construct, if practicable, such and so many chimney-jambs, breasts and flues of chimneys, in all such parts of such party-wall as shall be by such instructions required, and to leave such recesses in every such wall as may be so required; but so that they be conformable with the directions of this Act concerning party-walls and chimneys; And that thereupon it shall be lawful for the building-owner to claim, and he is hereby entitled to recover from the adjoining owner all the expenses of constructing such chimney-jambs, breasts and flues of chimneys and recesses, as provided by this Act in that behalf.

chimney-breasts, &c., in new party-wall for adjoining owner.

Instructions by adjoining owner.

Reimbursement of expenses.

Ruinous Buildings.

40.

XL. And whereas buildings within the limits of this Act are often, either from litigated titles thereto, or from the obstinacy, neglect or poverty of the owners thereof, or of the parties interested therein, or from other causes, in so ruinous a condition that passengers are endangered thereby; Now for the purpose of making provision in that behalf; Be it enacted, with regard to ruinous buildings, or parts of buildings, so far as relates to repairing or pulling down the same, that, upon receiving information of any building being in a ruinous and dangerous condition, it shall be the duty of the surveyor, and of the overseers for the time being of the parish or place in which the same shall be, and they are hereby respectively required, to apply forthwith to the official referees to authorize a survey to be made

Repairing and rebuilding.

Application to official referees.

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thereof; And that, thereupon, it shall be lawful for the official referees to direct the surveyor to make such survey; And that, thereupon, it shall be the duty of such surveyor to act in all respects as in the case of a survey of party-walls; And that, upon the receipt of the certificate of the surveyor, it shall be lawful for the official referees, and they are hereby required to cause a copy thereof to be transmitted, if the premises be within the city of London, then to the court of lord mayor and aldermen, and if they be elsewhere, then to the overseers of the poor of the parish or place in which such premises shall be; And that, thereupon, it shall be the duty of such mayor and court of aldermen and overseers to cause, with all convenient speed, any such ruinous building to be securely shored, or a proper and sufficient hoard to be put up for the safety of all passengers; and to cause notice in writing to be given to the owner of such building to repair or pull down the same or any part thereof as the case may require, within fourteen days then next ensuing; And that if within the said fourteen days the repair or demolition thereof be not begun and be not completed as soon as the nature of the case will admit, then on a declaration being made before the said lord mayor or a justice of the peace, of such notice having been so given, (which declaration the said lord mayor and justice are hereby respectively empowered and required to receive,) it shall be lawful for the said lord mayor and court of aldermen, and they are hereby authorized and required, out of the cash in the chamber of London, and also for every such overseer of the poor by and out of the money in his hands, and they are hereby severally authorized and required, with all convenient speed, to order and cause such building or such part thereof so certified to be in a ruinous and dangerous condition, as shall be necessary for the safety of the passengers, to be repaired or pulled down, or secured in such manner as shall from time to time be requisite: Provided always, that if such lord mayor and aldermen, or such overseers, appeal against such certificate, it shall be the duty of the official referees to proceed to survey, to

Ruinous Buildings.

Survey.

Notice to lord mayor, &c., and to overseers.

Shoring and erection of hoards, and notice to parties.

Repa

Appeal against survey.

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Ruinous Buildings.

Demolition.

certify and to award in all respects as in the case of an appeal from the certificate of the surveyor with reference to party-walls or intermixed buildings; And that if such official referees certify that the said premises are ruinous and dangerous, it shall be the duty of the said lord mayor or the said overseers to repair or pull down such building as aforesaid.

41. Disposal of materials to pay costs.

XLI. And be it enacted, with regard to any such ruinous buildings so pulled down, so far as relates to the disposal of the materials thereof and to the application of the proceeds, That it shall be lawful for the said lord mayor and court of aldermen, or the said overseers, to sell and dispose of such of the materials as they shall judge necessary, and out of the moneys arising from the sale thereof to reimburse to themselves, the surveyors and official referees, and every person by them respectively employed for the purposes aforesaid, all the charges of the survey and appeal, and of putting up every such hoard, and of repairing, pulling down and securing such premises, and of making good the pavement, and of selling the said materials as aforesaid, or so much thereof as the moneys arising by such sale will extend to; And that if there be any surplus after payment of all expenses, then, upon demand thereof made by such owner, it shall be the duty of the said lord mayor, or of the said overseers, to account for and pay such surplus of the moneys arising by such sale to the owner of such building; or if there be any question as to the person entitled to such surplus, or as to the priority of title to such sum of such persons so entitled, or as to the proportions to which such persons are so entitled, then it shall be lawful either for the lord mayor or the overseers, or for any person claiming to be so entitled, to refer the matter to the determination of the official referees, and their decision shall be final; And that if no such demand be made, then such surplus shall, as regards places within the city of London, and the liberties thereof, be paid to the chamberlain of the city; and as regards all other places, such surplus shall be paid to the overseers and added to the moneys raised as rates for the relief of the poor

Payment of surplus on demand.

If no demand.

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of the parish or place, and accounted for accordingly: Provided nevertheless, that, at any time within six years from the deposit of such surplus, it shall be lawful for any such owner, his executors or administrators, to claim, and he and they are hereby entitled to recover such surplus; and the said lord mayor and aldermen of the city of London, as regards the said city and liberties thereof, are hereby required to pay such surplus out of the cash in the chamber of London; and every overseer, as regards places not within the said city or the liberties thereof, is hereby required to pay such surplus out of any moneys raised or to be raised by any rate for the relief of the poor.

Ruinous Buildings.

City of London or overseers to refund within six years.

XLII. And be it enacted, with regard to such ruinous buildings, so far as relates to the expenses of any such survey and appeal, putting up such hoard, repairing, pulling down, and securing such buildings, and selling the materials beyond the amount thereof, which shall have been satisfied by the application thereto of the proceeds of the materials, That if the moneys arising from such sale be insufficient to repay all such expenses, then, from time to time, such deficiency shall be paid by the owner of every such building, being the person entitled to the immediate possession thereof, if known; And that if, on demand thereof, such owner fail to pay such deficiency, then it shall be lawful for the lord mayor for the time being, if such ruinous building in question be within the city of London or the liberties thereof, or if elsewhere, for two or more justices of the peace, to levy the amount thereof by warrant under their hands and seals, by distress and sale of the goods and chattels of such owner, if any such can be found; And that if no such owner can be met with, or being met with, shall not, on demand, pay the said deficiency, and no sufficient distress of the goods and chattels of such owner can be found, then it shall be lawful for the person who shall at any time thereafter occupy any such building, or the ground where the same stood, and he is hereby authorized and required to pay and deduct the same out of the rent thereof; And that if he neglect or

42. If a deficiency, to be paid by the owner;

Or levied by warrant of distress.

Or occupier to pay and deduct from rent;

Or by dis-

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Ruinous Buildings.

refuse to pay such deficiency, then it shall be lawful for the said lord mayor, or two or more such justices of the peace, and they are hereby empowered and required to cause the same to be levied by distress and sale of the goods and chattels of any occupier of the premises, together with the costs of every such distress and sale; And that if the premises be situate within the city of London and its liberties, it shall be the duty of the person by whom the same shall be received, and he is hereby required to pay the amount to the chamberlain, to be by him from time to time placed to the credit of the cash of the said city of London; and if the premises, in respect of which such money shall be received or recovered, be not situate within the said city of London and the liberties thereof, then to pay the amount received to the overseers of the poor for the time being of the parish or place where the premises shall be situate, to be by them placed to the account of the said parish, in aid of the poor rate of the parish or place.

Distress on occupier.

Payment of money to chamberlain or to the overseers.

43. Repair of ruinous chimneys, &c.

XLIII. And be it enacted, with regard to ruinous chimneys, roofs, and projections, so far as relates to the repairing thereof, That if a chimney-shaft, chimney-pot or other thing thereon, or the eaves, or parapet, or coping, or slates, or tiles on the roof, or any projection from the front walls of any building, be in danger of falling; then it shall be the duty of such surveyor and he is hereby required to require the occupier of such building, or if there be no occupier, then the owner thereof, to take down or secure the same within thirty-six hours after notice thereof shall have been given; and that if, within the time specified, such occupier, or some other person interested in such building, do not begin to take down or secure the same, and, as soon as the nature of the case will admit, complete such taking down or securing of the same, then it shall be the duty of such surveyor to give information thereof to a justice of the peace; and, thereupon, it shall be the duty of such justice of the peace to proceed to cause such chimney-shaft, chimney-pot or other thing thereon, or the eaves, or parapet, or coping, or slates,

Notice.

Repairs.

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or tiles on the roof or projection from the front or side wall of such building as shall be considered by such surveyor in danger of falling, to be forthwith taken down or secured; And that if there be no occupier or known owner, then it shall be lawful for such justice to direct that the reasonable expenses, to be certified by the official referees, be paid by the overseers of the parish or place in which such building shall be situated; And if thereafter the owner of such building become known, or if the building become occupied, then it shall be lawful for the overseers of the poor, and they are hereby entitled to recover the amount of such expenses from such owner or from such occupier, as in the case of ruinous buildings hereinbefore provided for; And that if within the time limited the occupier or some other person interested in such building do not take down or secure the same, then for every day during which the same shall so remain unrepaired or not sufficiently secured, such occupier or the owner, if there be no occupier, shall forfeit and pay a sum not exceeding five pounds; And that such occupier or owner shall also pay the surveyor's fees and all other costs, charges, and expenses attendant upon any such taking down or securing the building; and all such surveyor's fees, and other costs, charges, and expenses may be recovered and levied in the same manner as such penalty: Provided always, that if the occupier of such building be not bound by virtue of any lease or other instrument to repair, reinstate or secure the premises, then such occupier is hereby entitled to retain out of the rent payable in respect of such premises, all such penalties, costs, charges, and expenses attendant upon or arising out of the taking down or securing, or the repairing or rebuilding the same, as in the case of any other works, the costs of which he is hereby required to pay in the first instance.

Ruinous Buildings.

Certification of expenses.

Recovery from owner or occupier.

Penalty.

Fees and expenses.

Reimbursement of occupier.

XLIV. And be it enacted, with regard to adjoining buildings, so far as relates to the making good any damage arising from the falling down of parts thereof, (except any such part of a party-wall as shall belong to and be used conjointly by the owners or occupiers

44. Injury by the fall of chimneys, &c.

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Ruinous Buildings.

of the buildings parted thereby,) That if at any time any injury or damage be caused to any part of an adjoining building, or to the internal decorations and furniture, goods, wares, and merchandize in such building, by the falling down from any other building of any chimney-shaft, chimney-pot, parapet, coping or other thing, then it shall be the duty of the owner of the building from which such part shall fall, and he is hereby bound and required to reimburse the expense to which the owner or occupier may be put in making good such injury or damage, in like manner as herein directed concerning the reimbursement of the expenses of ruinous party-walls; and such costs shall be recoverable in the manner hereinafter directed for the recovery of the costs and expenses of executing works in pursuance of this Act.

Compensation.

45. Court of mayor and aldermen.

XLV. And be it enacted, That all the powers and authorities by this Act vested in the mayor and aldermen of the city of London, may be lawfully exercised by the court of mayor and aldermen of the said city, to be holden in the outer chamber of the guildhall of the said city, according to the custom of the said city.

Expenses of Works.

46. Repayment of expenses of works in certain cases.

XLVI. And, for the purpose of reimbursing any building-owner for the expense of works incurred in respect of any party structure; Be it enacted, with regard to the following works, so far as relates to the reimbursement, by the adjoining owner, of expenses incurred by the building-owner, in respect of any party structure, built to part the buildings or premises belonging to other owners from the buildings or premises belonging to himself; that is to say,—

First, With regard to any party-wall hereafter built on the line of junction of any two buildings; and,

Second, With regard to any party-wall hereafter built on the line of junction of any building and any vacant ground, or of vacant premises, belonging to different owners or occupiers; and,

Third, With regard to a ruinous and defective party-wall pulled down and rebuilt, either with

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the consent of the adjoining owner, or in pursuance of the condemnation thereof, according to this Act, except a party-wall condemned on account of the injury done thereto by any building-owner, and the expenses of which and of other incidental works the official referees shall have awarded to be paid by such building-owner, by virtue of the provision in that behalf; and, *Expenses of Works.*

Fourth, with regard to one or more timber partitions between any two or more buildings pulled down, and a party-wall built in lieu thereof; and,

Fifth, with regard to a new party-wall or party-arch built in lieu of any party-wall or party-arch between intermixed properties pulled down, either with the consent of the adjoining owner, or in pursuance of the condemnation of such party-wall or party-arch; and,

Sixth, with regard to any party-wall built on the site of a party-fence or party-fence-wall, and used otherwise than as a party-fence-wall by the person who shall not have built the same; and,

Seventh, with regard to every other case of reimbursement, in respect of any party structure;

That if the party structure, be built in the manner, and of the materials, and of the thicknesses of such structure as required by this Act in reference thereto, then it shall be lawful for the building-owner at whose expense such work shall have been executed, to claim and he is hereby entitled to be paid and to recover from the person who is entitled to the immediate possession of the adjoining building or ground, or who is in the immediate occupation thereof, the following compensations; that is to say,— *Recovery of expense from adjoining owners.*

If a new party-wall or party-arch built on the line of junction by one owner, be made use of, either wholly or partially, by the adjoining owner, then the sum of money pro-

In reference to this section it must be remembered, that the first builder would be entitled to remuneration for the whole of a

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Expenses of Works.

portionate to the value of so much of such party structure so made use of; and

party or fence-wall, used not only for building purposes, but also for purposes of distinguishing and defining the boundaries of property; thus where *A.* uses *B.*'s wall of three hundred feet in length for building purposes for fifty feet only, and the residue of the wall divides the two properties, *A.* must pay half the expense of building the whole length of such wall.

If chimney-jambs, chimney-breasts and flues have been set up in any party-wall in pursuance of the instructions of the owner of any vacant ground adjoining to the same, then a sum equal to the value thereof; and

If an unsound party-wall or other party structure be pulled down and rebuilt,

But its unsoundness must be certified by the district surveyor, or official referees.

then a sum of money equal to a proper proportion of the value of the new party structure, deduction being made for a due proportion of the old materials, and also a proportionate part of all expenses which shall be necessary for pulling down the old party structure, in lieu of which such new party structure shall be built; and

If a party-wall be built in lieu of a timber partition or other party structure, and be made use of by the adjoining owner, then a sum of money proportionate to the value of so much of such new party-wall as shall be so made use of; and also a proportionate part of all expenses which shall be necessary for pulling down the old timber partition or other party structure; and

If a party-wall or party-arch already built, or hereafter rebuilt, be used by any adjoining owner, then a sum of money proportionate to the value of so much of such party structure, as the adjoining owner shall use, deduction being made, where proper, for the value of old materials;

And, in every case, the whole of the reasonable expenses of the shoring up the adjoining building, and of removing any goods, furniture, or

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other things therein, and of pulling down any wainscot or partition thereof; *Expenses of Works.*

And also, such surveyors' fees and any other fees payable in respect of any acts performed by the official referees; and also, such other costs (if any) as may have been awarded by the official referees as aforesaid in any of the cases hereby provided for;

And until such expenses shall be so paid, every person at whose expense such party structure shall have been built is hereby entitled to and shall be possessed of the sole property thereof, and of the ground whereon it stands, and the same shall be vested entirely in the person at whose expense such party structure shall have been built. *Delay of payment.*

XLVII. And be it enacted, with regard to the costs of all the works which shall be executed under this Act, incurred either by an owner or by an occupier, either on behalf of the owners of the same premises, or on behalf of the owner of the adjoining premises, so far as relates to the recovery thereof, That, within twenty-one days after the completion of the work, it shall be the duty of the person by whom such expense shall have been incurred, to deliver to the adjoining owner of the building or premises in respect of which such expense shall have been incurred, an account in writing of the expenses of the work, including all preliminary and incidental operations; and also if the work shall have have been executed by the authority of the official referees, by virtue of the power hereby provided for supplying the want of consent of owners, then a copy 47. *Recovery of costs of building.*

Under similar provisions contained in the former act (s. 41), it was decided that the notice therein required did not apply to the erection of a new building, but only to the renewal of an old party-wall; and also that the first builder of a party-wall adjoining to vacant ground was not restricted to the actual enacted term of notice, but that he might give his notice within reasonable time after the adjoining house was attached to his wall.—*Collins* v. *Wilson*, 4 Bing. 551; *S. C.* 1 M. & P. 454.

There was a similar provision in the former act (s. 41), and it has led to certain judicial decisions which will furnish pre-

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Expenses of Works.

Account.

of such account shall also be delivered to the official referees at their office; And that every such account must contain a true account,—

cedents for future guidance. In conformity with one of these cases, as to the recovery of a proportion of the expenses from the adjoining owner for anything done under the Act, we may conclude that before an action can be brought to recover a proportion of the expenses of building a party-wall, the accounts prescribed by this section must be delivered, whether the house be occupied by the owner or by a tenant; and a formal demand of the money must be made by the claimant ten days before action brought, or the summary remedy provided by the Act can be taken advantage of (*q*). Where the account delivered contained a correct statement of the quantity of work done, and the materials allowed for it, it was held a sufficient account, though it also contained a statement of the prices paid for the brick-work, which exceeded the prices fixed by the statute (*r*).

And the demand for payment referring to that account, and consequently of a greater sum than was recoverable, is a good demand; and where the party-wall was built more on the defendant's ground than on plaintiff's; held, that the plaintiff might recover the expenses of building, the jury finding that there was no intention of encroaching, and the defendant having made no objection while the work was in progress (*s*).

First, of the number of rods and parts of rods of brick-work, and of all digging, and of concrete, stone-work, and other requisite materials, and of the labour required in executing so much of the work as the owner of the adjoining building shall be liable to pay, and of the respective prices thereof; and,

Secondly, of any deduction which such adjoining owner shall be entitled to make therefrom on account of the old materials of so much of the wall or other structure pulled down, which shall have belonged to him;

Data of Account.

And also a true account of the expenses of all other preliminary and incidental operations; And that all such works must be estimated and valued in every such account at such rates and prices as shall from

(*q*) *Philp* v. *Donati*, 2 Taun. 62.
(*r*) *Reading* v. *Barnard*, M. & M. 71.
(*s*) *Ibid.*

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time to time be fixed by the official referees; And that if within ten days from the delivery of such account, any party dissatisfied with the proportion of the amount thereof charged to him, appeal to the official referees, then upon the receipt thereof, or if, in cases of want of due consent as aforesaid, such account be delivered to the official referees as aforesaid, it shall be the duty of the official referees to examine such account, and to certify whether they approve or disapprove of the items thereof, and whether the rates and prices are duly charged, and whether the proportion of the account charged to the party appealing be duly charged, and also to appoint how and by whom the expenses of such examination are to be borne, and also to appoint the time or times at which the amount of such account, and of such expenses payable by any party, are to be paid; And that if they certify their disapproval, or that the charges are not duly made, or the amount fairly apportioned with regard to the party appealing, then before any demand be made or any proceedings be taken thereon, the account must be amended, and again examined by the official referees, and certified as aforesaid; And that if the official referees certify their approval, then at the time or times appointed by the said official referees, it shall be lawful for the person entitled to such costs and expenses to demand the amount thereof; And that if, within ten days after the delivering of such account to the party liable to pay the same, such party do not either appeal against such account or pay the same; or if, within ten days after the demand thereof, in conformity with the certificate of the official referees, the amount thereof, together with the costs of the examination of the account as the official referees shall certify, be not paid; then it shall be lawful for the person entitled thereto to recover the same, or so much thereof as shall be then due, by the summary proceeding hereby provided.

Expenses of Works.

Examination of accounts by official referees.

Disapproval.

Approval and demand of payment.

Recovery of amount.

48. Reimbursements of costs of works to occupiers.

XLVIII. Provided always, and be it enacted, with regard to works executed under this Act, so far as relates to the reimbursement to the occupier of any costs by him paid in respect thereof, That, unless there be some

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Expenses of Works.

covenant or agreement to the contrary between the parties, it shall be lawful for such occupier and he is hereby entitled to deduct from the rents due or becoming due from him to his lessor or landlord, the amount of any such costs, charges, and expenses payable by his lessor or landlord, and the costs, charges and expenses of any distress and sale made on him through the default of his lessor or landlord; And that the receipt for such payment shall be a sufficient discharge to any occupier for so much money as he shall have so paid, or which shall have been so levied on his goods and chattels in pursuance of this Act, and shall be allowed by such lessor or landlord in part or full payment (as the case may be) of the rent due to him by such occupier.

Discharge and repayment.

The occupier, however, must be careful lest he lose his remedy against the landlord by any active interference in ordering and superintending the works, the expenses of which he claims to be reimbursed.

Where notice of pulling down and rebuilding a party-wall was given under the former act, and the tenant of the adjoining house, who was under covenant to repair, finding it necessary, in consequence, to shore up his house, and to pull down and replace the wainscot and partitions of it, instead of leaving such expenses to be incurred and paid by the owner of the house, giving notice in the manner prescribed by the Act, and afterwards paying the same to him upon demand, employed workmen of his own to do these necessary works, and paid them for the same:—Held, that he could not recover over against his landlord, such expenses incurred by his own orders, and paid for by him in the first instance; all the powers and authorities given by the Act in respect to any works to be done, being given to the owner of the house intended to be pulled down and rebuilt, and the landlord of the adjoining house being only liable by the Act to reimburse his tenant money paid by him to the other owner, for such works as are authorized to be done by such other owner, in respect of such adjoining house.—*Robinson* v. *Lewis*, 10 East, 227.

A tenant under covenant to repair, cannot maintain an action against his landlord for a moiety of the expense of rebuilding a party-wall, which, being out of repair, the tenant pulled down and rebuilt at the joint expense of himself and the occupier of the adjoining house, to whom he had given the notice required by the statute in his landlord's name, but without his authority. —*Pizy* v. *Rogers*, 1 Ry. & M. 357.

49. Recovery of

XLIX. And be it enacted, with regard to the costs

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and all other expenses of pulling down, securing, repairing and rebuilding party structures, or other parts of buildings, according to the provisions of this Act, so far as relates to the recovery thereof, amongst the several owners of the premises, That when such costs and expenses shall have been ascertained and paid by the owner, upon whom the payment thereof shall have first fallen, then, as to any building or tenement held under any lease or agreement for a lease, or other agreement for the occupation thereof, made before the coming into operation of this Act, it shall be lawful for such owner, and he is hereby entitled to recover the same from the persons now bound or liable by law, or by any existing contract, to maintain and repair such buildings, in respect of which such costs and expenses shall have been incurred; but if any dispute or difference arise as to the persons so bound or liable, then every such dispute or difference shall be referred to the official referees; And that thereupon such official referees shall ascertain and determine the persons bound or liable to pay such costs and expenses, and also in what proportions such costs and expenses are to be paid by the parties liable to pay the same, and their decision shall be final; And that as to any building or tenement to be held under any lease or agreement for a lease, or other agreement for the occupation thereof, made after the coming into operation of this Act, except a lease renewable for ever on a fixed fine or other customary payment, all such costs and expenses shall be charged upon the lessor granting such lease or making such agreement, and not upon any lessee or sub-lessee holding under any such lease or agreement, subject, nevertheless, to any express covenant or agreement made between any such lessor and lessee in that behalf; and in case of such excepted lease, such costs and expenses shall be charged upon the lessee instead of the lessor,

Expenses of Works.

expenses of buildings.

This section, referring to the remedies under the former act upon leases, agreements, &c., existing at the time of passing of this Act, leaves the parties to such leases, &c., to decide their several responsibilities, as if the former act still existed; therefore, the cases already given (*ante*, s. 33) will apply directly to this section.

Differences.

Determination by official referees.

Charges.

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Expenses of Works.

subject as aforesaid to any express covenant or agreement in that behalf between any such lessee and his sub-lessee holding under such lessee upon other than a fixed fine or customary payment as aforesaid; And that in default of such costs and expenses being duly paid, it shall be lawful for the party to whom the same shall be payable, and he is hereby entitled to receive from the occupier thereof the rents and profits of such building or tenement; and for that purpose to give notice to such occupier to pay over to him such rents and profits; And that thereupon, if such occupier fail to pay such rent and profits accordingly, then it shall be lawful for the person to whom such costs and expenses shall be payable to recover the same from such occupier by the summary proceeding hereby provided, in such proportions and at such times as shall be appointed by the award of the said official referees in that behalf; And that after such notice shall be given, and before such costs and expenses shall be paid, it shall not be lawful for any person otherwise entitled to receive such rents and profits, and he is hereby disabled from bringing any action and from taking any proceeding at law or in equity to recover such rents and profits: Provided always, That if on the hearing of the application for the warrant to levy such costs and expenses by distress according to the provision of this Act in that behalf, the occupier, not being an owner, show that he is not bound to pay, in respect of such building or tenement, any rent or profit, or that the amount of the rent or profit payable by him is not sufficient, then it shall not be lawful to issue such warrant, if there be no rent due or accruing; or if there be rent due or accruing, then to the extent only of the amount of such rent; And that if such costs and expenses or any part thereof remain unpaid, and if the same or any future occupier be or become liable to pay rent in respect of such building or tenement, then from time to time, until the same be paid, it shall be lawful to levy the same by distress, according to the provisions of this Act in that behalf, upon the same or any such future occupier.

Receipt of rents.

Recovery of rents.

Priority of right.

Limitation of distress.

Continuance of distress until payment made.

50. Official re-

L. And be it enacted, with regard to such costs and

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expenses of works executed under this Act, so far as relates to contribution thereto by persons bound or liable to make contribution, That for the purpose of enabling the party upon whom the payment of such costs and expenses shall fall, either in the first instance or subsequently, to obtain contribution from other persons, being owners, according to the meaning of this act, in like degree, and so bound or liable to make contribution, it shall be lawful for every such first-mentioned person, whether he be freeholder, copyholder, leaseholder, mortgagee in possession, and whatever may be his interest or the nature and extent of such his interest, and whether he hold in his own right, or in right of others, and whatever may be the kinds and degrees of their respective interests, and he is hereby entitled to a contribution from every other person having as owner an interest in the premises of whatever kind or degree; which contribution is to be computed, according to the amount of his interest, in proportion to that of other persons interested, so far as such persons may be known, or can be reached by process of any court of law or equity; And that it shall be lawful for any party so interested, and he is hereby entitled, to require the official referees to settle and determine the same by their award, and their decision shall be final; And that if the person upon whom the payment of such costs and expenses shall have fallen have paid in respect of the interest of another or others, either unknown or who could not be reached by process of any court of law or equity, more than his own just proportion, then, on the production of such award, duly made, signed, and sealed, it shall be lawful for such person to have and exercise against other parties against whom such award shall be made, and he is hereby entitled to the like remedies to compel payment of money as are hereby given for compelling the first payment of such costs and charges of such expenses.

Expenses of Works.

Referees to determine contributions.

Proportional contributions.

Decision of official referees.

Recovery of excess paid by any contributor.

LI. And now, for the purpose of facilitating the improvement of the drainage of houses, Be it enacted, with regard to the drains, cesspools, and privies to buildings hereafter built, so far as relates to the making

Drainage of Houses.

51. Making of

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Drainage of Houses.

drains according to Schedule (H.)

Penalties.

Communications with sewers.

Saving powers, &c. of commissioners of sewers.

thereof, That from the passing of this Act all the conditions, regulations, and directions contained in the Schedule (H.) to this Act annexed shall be duly observed and performed; And that if any person offend in respect thereof he shall be liable to all the penalties and forfeitures by this Act imposed, in respect of any buildings either built contrary thereto or without due notice to the surveyor appointed, in pursuance of this Act, to inspect such buildings: Provided always, with regard to such drains, so far as relates to the communication thereof with the sewers under the jurisdiction of the commissioners of sewers, That unless the regulations of such commissioners now or hereafter in force be repugnant to the directions contained in such schedule, and to the extent to which such regulations are not so repugnant, it shall be the duty of every person, and he is hereby required to make such drains to conform to such regulations: And that with regard to such drains, except so far as is hereby otherwise provided, all the rights, powers, jurisdiction and authority vested in any such commissioners shall be as valid and effectual as if this Act had not been passed.

Streets and Alleys.

52. Width thereof.

Penalties.

LII. And now, for the purpose of making provision concerning streets and other ways of the metropolis; Be it enacted, with regard to such streets and other ways hereafter formed, so far as relates to securing a sufficient width thereof, That, from the passing of this Act, all the conditions, regulations, and directions contained in the Schedule (I.) to this Act annexed, shall be duly observed and performed; And that if any person offend in respect thereof, he shall be liable to all the penalties and forfeitures by this Act imposed in respect of any buildings either built contrary thereto, or without due notice to the surveyor appointed in pursuance of this Act to inspect such buildings.

Buildings, Use thereof.

53. Occupation of cellars or rooms unfit

LIII. And now, for the purpose of discouraging and prohibiting the use of buildings unfit for dwellings; Be it enacted, with regard to every building of the first or dwelling-house class, whether already or hereafter built, so far as relates to the occupation thereof, or to the occupation of any underground room or cellar thereof,

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That from and after the first day of July one thousand eight hundred and forty-six it shall not be lawful to let separately to hire as a dwelling any such room or cellar not constructed according to the rules specified in the Schedule (K.) to this Act annexed, nor to occupy or suffer it to be occupied as such, nor to let, hire, occupy, or suffer to be occupied, any such room or cellar built underground, for any purpose (except for a ware-room or store-room); And that if any person wilfully let, or suffer to be occupied in manner aforesaid, any underground cellar or room, contrary to the provisions of this Act, then on conviction thereof, before two justices of the peace, such person shall be liable to forfeit, for every day during which such cellar or room shall be so occupied, a sum not exceeding twenty shillings; and one-half of such penalty shall go to the person who shall sue for the same, and the other half to the poor of the parish in which such unlawfully occupied cellar or room shall be situate; And that on or before the first day of January one thousand eight hundred and forty-five, it shall be the duty of the overseers of the poor, and they are hereby required to report to the official referees the number and situation of the dwellings within their respective parishes, of which any underground room or cellar shall be so occupied; And that thereupon it shall be the duty of the official referees, and they are hereby empowered to direct such notice to be given to the owners and occupiers of such dwellings, as shall appear to such official referees to be best calculated to give to such owners or occupiers full knowledge of the existence, nature, and consequences of this enactment: And that it shall be the duty of the district surveyors, and they are hereby required to give full effect to the directions of such official referees in this behalf.

Buildings, Use thereof. for dwellings.

Penalty.

Report by overseers of poor as to number and situation of dwellings.

Notice thereon by official referees to owners and occupiers.

District surveyors to observe directions of official referees.

LIV. And now, for the purpose of making provision, concerning businesses dangerous in respect of fire or explosion; Be it enacted, with regard to the following businesses; (that is to say), the manufacture of gunpowder or of detonating powder, or of matches ignitable by friction or otherwise, or other substances liable to sudden explosion, inflammation, or ignition, or of vitriol,

54. Buildings near dangerous businesses as to fire.

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Buildings, Use thereof.

or of turpentine, or of naphtha, or of varnish, or of fireworks, or painted table-covers, and any other manufacture dangerous on account of the liability of the materials or substances employed therein to cause sudden fire or explosion, so far as relates to the erection of buildings in the neighbourhood of the place where any such business is carried on, and so far as relates to the carrying on of any such business in the

Distance from buildings.

neighbourhood of public ways or buildings, That it shall not be lawful hereafter to erect any building of any class nearer than fifty feet from any building which shall be in use for any such dangerous business; but if a building already existing within fifty feet from any such building be hereafter pulled down, burnt, or destroyed by tempest, such building may be rebuilt;

New businesses.

And that it shall not be lawful for any person to establish or newly carry on any such business, either in any building or vault or in the open air, at a less distance than forty feet from any public way, or than fifty feet from any other building, or any vacant ground belong-

Prohibition after twenty years.

ing to any other person than his landlord; And that if any such business be now carried on in any situation within such distances, then, from the expiration of the period of twenty years next after the passing of this Act, it shall not be lawful to continue to carry on such

Fifty pounds penalty and costs.

business in such situations; And that if any person erect any building in the neighbourhood of any such business contrary to this Act, then, on conviction thereof before two justices, he shall forfeit a sum not exceeding fifty pounds, for every day during which such building shall so remain near to such dangerous business; or if any person establish anew any such business, or carry on any such business contrary to this Act, then on conviction thereof before two justices, such person shall be liable to forfeit for every day during which such business shall be so carried on, a sum, not exceeding fifty pounds, as the said justices shall

Costs.

determine; And that it shall be lawful for the justices also to award to the prosecutor such costs as shall be

Distress;

deemed reasonable; And that if the offender either fail or refuse to pay such penalty and costs immediately

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after such conviction, then they may be levied by distress of the goods and chattels of the person convicted; or if there be no such distress, then such person shall be committed to the common gaol or house of correction for any time not exceeding six months, at the discretion of such justices; and that by warrant under the hands and seals of two or more justices of the peace. *Buildings, Use thereof.* Or imprisonment.

55. Buildings near noxious businesses as regards health.

LV. And now, for the purpose of making provision concerning businesses offensive or noxious, Be it enacted, with regard to the following businesses; that is to say,—

Blood-boiler, Soap-boiler,
Bone-boiler, Tallow-melter,
Fellmonger, Tripe-boiler,
Slaughterer of cattle, sheep, or horses,

and any other like business offensive or noxious, so far as relates to the erection of buildings in the neighbourhood of any such business, and so far as relates to the carrying on of any such business in the neighbourhood of any public way, or of other buildings of the first or dwelling-house class, That it shall not be lawful hereafter to erect any buildings of the first or dwelling-house class nearer to, than fifty feet from, any building which shall be in use for any such offensive or noxious business; but if a building already existing within fifty feet be hereafter burnt, pulled down, or destroyed by tempest, such building may be rebuilt; And that it shall not be lawful for any person to establish or newly carry on any such business, either in any building or vault or in the open air, at a less distance than forty feet from any public way, or than fifty feet from any other such buildings of the first or dwelling-house class; And that if any such business be now carried on in any situation within such distances, then, from the expiration of the period of thirty years next after the passing of this Act, it shall cease to be lawful to continue to carry on such business in such situation, save as is hereinafter provided; And that if any person erect any building in the neighbourhood of any such business, contrary to this Act, then, on conviction thereof before two justices, he shall forfeit a sum not

Distance from buildings. New businesses. Prohibition after thirty years. Fifty pounds penalty and costs.

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Buildings, Use thereof.

exceeding fifty pounds for every day during which such building shall remain near to such offensive or noxious business; or if any person establish anew any such business, or carry on any such business contrary to this Act, then, on conviction thereof before two justices, such person is hereby made liable to forfeit for every day during which such business shall be carried on, a sum not exceeding fifty pounds, as the said justices shall determine; And that it shall be lawful for the justices also to award to the prosecutor such costs as shall be deemed reasonable; And that if the offender either fail or refuse to pay such penalty and costs immediately after such conviction, then they may be levied by distress of the goods and chattels of the person convicted; or, if there be no such distress, then such person shall be committed to the common gaol or house of correction for any time not exceeding six months, at the discretion of such justices, and that by warrant under the hands and seals of two or more justices of the peace.

Distress.

Or imprisonment.

56. The penalty hereinbefore imposed to be enforceable only at a special sessions.

LVI. Provided always, and be it enacted, with regard to any such offensive or noxious business, whether such business be now carried on at a less distance than forty feet from any public way, or than fifty feet from any other building, or be hereafter carried on at a greater distance, yet so as to cause danger or annoyance, so far as relates to the mitigation of any penalty or punishment for unlawfully carrying on thereof, That every such penalty hereinbefore imposed shall be enforceable only at a special sessions of the peace summoned for that purpose, or on an appeal as hereinafter provided, or on a trial as hereinafter provided; and that, notwithstanding the said term of thirty years shall have expired, if any party charged with carrying on such business show that in carrying on such business all the means then known to be available for mitigating the effect of such business in any such respect have been adopted, then it shall be lawful for such justices to receive evidence thereof, and according to such evidence to mitigate the penalty as to them shall seem fit: Provided further, with regard to such offensive or noxious business, so far as relates to

Use of means to mitigate noxiousness of businesses.

Adoption of means to mitigate

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the adoption of means to mitigate the injurious effects thereof, That notwithstanding the said period of thirty years shall have expired, if it shall appear to the justices whether at petty sessions as aforesaid, or on appeal, or on trial by jury, as hereinafter provided, that the party carrying on any such business shall have made due endeavours to carry on the same with a view to mitigate so far as possible the effects of such business, then although he hath not adopted all or the best means available for the purpose, yet it shall be lawful for such justices assembled, and they are hereby empowered, to suspend the execution of their order or determination, upon condition that, within a reasonable time to be named, the party convicted do adopt such other or better means as to the said justices shall seem fit, or before passing final sentence and without consulting the prosecutor, to make such order touching the carrying on of such business as shall be by the said court thought expedient for preventing the nuisance in future: Provided always, that if the matter in respect of which such penalty shall be incurred come before any superior court, it shall be lawful for such court to exercise such power of mitigating such penalty, or of suspending the execution of any judgment, order or determination in the matter, or to make such order touching the carrying on of such business as to the court shall seem fit in the case.

Buildings, Use thereof.

after conviction.

Mitigation of penalty by superior courts.

57. Conviction and appeal as to certain trades not specified.

LVII. And be it enacted, with regard to any business offensive, noxious, or dangerous, and with regard to any building erected or continued within any such distance as aforesaid from any such business dangerous, noxious, or offensive, so far as relates to a conviction in respect of any such business, and to an appeal from such conviction, That if any person be dissatisfied with the decision of such justices, and if, within four days after such decision, notice be given to the party appealed against, by or on behalf of such person,

Recognizances.

These provisions are similar to those in the former act, giving a right of appeal to the quarter sessions, and making its decision binding and conclusive upon all parties. Four days are given, however, instead of two, wherein notice of appeal may be given. Under s. 96, of

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Buildings, Use thereof.

of his intention to appeal; and if he enter into a recognizance with two sufficient securities conditioned to try such appeal, and to abide the order of the court, and pay to the party appealed against, such costs (if any) as shall be awarded against him, then it shall be lawful for such party so dissatisfied to appeal against such conviction to the justices of the peace at

Sessions.

their general quarter sessions of the peace, to be holden within four months after such conviction, for the place in which such premises shall be situate; And that if the premises be situate within the city of London, and liberties thereof, then the appeal must be to the quarter sessions thereof, or if the premises be situate in the counties of Middlesex, Kent, or Surrey, or in the city and liberties of Westminster, or in the liberties of her Majesty's Tower of London, then to the quarter sessions thereof respectively, as the case

Proceedings.

shall be; And that if, within the above-mentioned period, such appellant shall have entered into such recognizance as herein required, and if within one month thereafter he give notice of the grounds of such appeal, then it shall be lawful for such justices, and they are hereby empowered, to proceed to hear and examine on oath into the causes and matters of such appeal (which oath they are hereby empowered to administer), and to determine the same, and to award

the former act, where the right of appeal is given to any person who may think himself aggrieved by any conviction, commitment, distress, order or judgment of the justices, it was held, that a district surveyor who had lodged a complaint against a party for an alleged infringement of the act, which complaint had been dismissed by the justices, could not appeal against their decision to the quarter sessions, for the act gave that right only to the party aggrieved by any conviction, which must apply therefore to affirmative orders, under which something is to be done by which a party may be aggrieved. In the present section, the words are far more general; "if any person be dissatisfied," he may appeal. Perhaps, however, the reasons given in the former case, would apply to prevent a similar appeal under the present Act. The surveyor, as was then observed, "might apply to two other justices, who might entertain a different opinion." Certainly, this would be the cheapest and most expeditious course.—*Rex* v. *Middlesex* (*Justices*) 16 East, 310.

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such costs to be paid by the said parties as they think proper; And the order, judgment and determination of the said justices in their respective sessions shall be binding and conclusive upon all parties. *Buildings, Use thereof.*

58. Trial by jury at quarter sessions.

LVIII. Provided always, and be it enacted, That if before conviction by two such justices, the party complained against desire to have the matter tried by a jury, and enter into a recognizance to try such matter without delay, and to pay all costs of trial if a verdict be found against him, then such matter may be tried at the next practicable court of quarter sessions, or whensoever the court shall appoint; And that thereupon, or on the application of such party, it shall be lawful for the said court of quarter sessions, and they are hereby authorized and required to issue their warrant or precept to the sheriff or other proper officer (as the case may be), requiring him to return a competent number of persons qualified to serve on juries, according to the provisions of an Act made in the sixth year of the reign of his late Majesty King George the Fourth, "for consolidating and amending the Laws relative to Jurors and Juries;" And that it shall be lawful for the said court of quarter sessions, and they are hereby authorized and empowered by precept, from time to time, as occasion may require, to call before them respectively every person who shall be thought proper or necessary to be examined as a witness before them on oath concerning the premises; And that if the said court think fit, it shall be lawful for them, and they are hereby empowered to authorize the said jury to view the place in question in such manner as they shall direct, and to command the attendance of such jury, and of all such witnesses and parties, as shall be necessary or proper, until such affairs for which they are summoned shall be concluded; And that the said jury shall inquire and try and determine by their verdict,

This is a new privilege conferred by this Act, for which there was no provision in the other. It is a useful and salutary enactment, prescribing a mode of trial more satisfactory, in general, to the public, and especially so to appellants, who may feel themselves aggrieved by the decision of any two justices.

Summoning of a jury.

6 Geo. IV. c. 50.

Witnesses.

View of the premises.

Verdict of jury.

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Buildings, Use thereof.

Judgment according to verdict.

And judgment to be binding.

59. Appeals to quarter sessions for Surrey and Kent.

To sessions at Southwark.

To sessions at Greenwich.

Further meetings.

Adjournments.

whether the business in question be offensive or noxious; and whether the party in question have done any act whereby the penalty hereby imposed in respect thereof has been incurred; And that, subject to the power hereinbefore conferred of mitigating such penalty or suspending their judgment, order, or determination thereon, or making such order touching the carrying on of the business aforesaid, the said court of quarter sessions shall give judgment according to such verdict, and shall award the penalty (if any) incurred by the defendant, and shall and may (if they see fit) award to either of the parties such costs as they may deem reasonable, which verdict, and the judgment, award, order, or determination thereupon shall be binding and conclusive.

LIX. And be it enacted, with regard to any appeal in respect of a conviction for carrying on any such dangerous, offensive or noxious business, so far as relates to the place where such appeal is to be heard, That if the appeal be to the general quarter sessions of the peace for the county of Surrey or the county of Kent, then the jury (if any) to be impannelled, in pursuance of this Act, and all parties required to attend the quarter sessions for the said counties pursuant to such application, shall be impannelled and required to attend at some general or special adjournment of the said quarter sessions to be held within six weeks next after the original sessions; And that if the matter relate to the county of Surrey, then such adjournment shall be to some convenient place in the borough of Southwark in the said county; And that if the matter relate to the county of Kent, then such adjournment shall be to some convenient place in the borough of Greenwich in the said county; and such times and places shall be appointed by the justices of the said counties respectively assembled at such original sessions; And that, from time to time, every further meeting of the said sessions, for any thing to be done upon such application, shall be appointed at or within the space of three weeks from the last meeting; And that, from time to time, it shall be lawful for the justices of the peace for the said counties of Surrey and Kent respectively, and

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they respectively are hereby empowered and required to make such adjournment and hold such sessions as there shall be occasion. *Buildings, Use thereof.*

60. LX. Provided always, and be it declared, with regard to any business which is contrary to any existing act of parliament, or otherwise contrary to law, so far as relates to the operation of this Act in that behalf, That, notwithstanding anything in this Act contained, this Act shall not be deemed to authorize any person to carry on any such business either within such limits or otherwise, or any business which it is unlawful to carry on, within any limits or in any manner contrary to any public, local, or private act of parliament, or otherwise contrary to law; nor to affect, abridge or restrain the right, the duty or the power of any person, whether private person or public officer, to prosecute, either civilly or criminally, any person who shall carry on, within the limits of this Act, any offensive, noxious, or dangerous business. *Common law and statutory remedies not affected.*

No business heretofore unlawful is legalized by this Act, though many may be prohibited which were formerly allowed. Nor does the Act interfere with any existing right to proceed in case of nuisance, either by action or indictment; but leaves all former remedies as they were. The remedies herein given, are therefore additional to any previously in existence, not in contravention of, or substitution for them.

61. LXI. And further, for the regulation or removal of any offensive, noxious, or dangerous business now carried on; Be it enacted, with regard to any such business, so far as relates to the purchase thereof, or of the premises wherein it shall be carried on, that if two-thirds in number of the inhabitant householders of any parish in which such business shall be carried on, present a memorial to her Majesty in council, stating the existence of such offensive, noxious, or dangerous business in such parish or the neighbourhood thereof, and praying the removal of such business therefrom, and thereby engaging to provide compensation to the persons carrying on the same, either at the expense of the memorialists, or by means of a rate to be levied on the inhabitants of the said parish, or such part thereof as may be affected by such business, then it shall be *Regulation or removal of trades deemed nuisances by purchase.* *Memorial to Queen in council.*

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Buildings, Use thereof.

lawful for her Majesty to refer the matter to the lords of the committee of privy council for trade, to consider the character of such business, whether it be offensive, noxious, or dangerous; And if it appear to be so, and that there are no means of rendering it otherwise by the adoption of methods available, without unreasonable sacrifice on the part of the person by whom it is carried on, then it shall be lawful for her Majesty, by order in council, to direct that the removal of such business may be purchased, either at the expense of the memorialists or by means of a rate, as aforesaid, as to her Majesty shall seem fit; and also to direct the sheriff of the county or other proper person in the parish or liberty in which such business is carried on, to summon a jury according to the provisions of an act made and passed in the fourth year of the reign of her present Majesty, intituled "An Act to enable Her Majesty's Commissioners of Woods to make a new Street from Coventry-street to Longacre, and for other Improvements in the Metropolis," to determine what compensation shall be paid to the party carrying on such business for the removal thereof, and to the owner and occupier of the premises for the restriction of the use of his buildings for such purpose; And that if, within three months after the verdict of such jury shall be given, and judgment thereon, the inhabitants of such parish or neighbourhood pay or tender such compensation, then, within three months from the payment or tender of such compensation, it shall cease to be lawful for the party carrying on such business to continue the same, and for any owner or occupier thereof either to carry on or to permit to be carried on such business in the same or any part of the same premises.

Order for removal.

Compensation.

4 & 5 Vict. c. 12.

Unlawful to continue such trades after purchase.

62. Funds for defraying compensation.

LXII. And be it enacted, with regard to the funds for defraying such compensation, so far as relates to the raising thereof, That if her Majesty shall by such order direct the compensation to be paid by means of a rate, then it shall be lawful for the overseers of the parish to raise such sum as shall be necessary, either as a separate rate in the nature of poor's rate, or as part of the poor's rate, on the inhabitants at large of such

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parish; or if in pursuance of the memorial of the inhabitants of such part of the said parish as shall be affected by the said business, it be appointed by such order in council that such last-mentioned inhabitants do defray such compensation, then it shall be lawful for the said overseers to raise such sum as shall be necessary for that purpose; And that if such rate be so levied either on the inhabitants at large of such parish, or on the inhabitants of such part thereof as aforesaid, then such rate may be levied and recovered as poor's rates are leviable and recoverable.

Buildings, Use thereof.

Levy of rate.

63. Exemption of public gas works.

LXIII. Provided always, and be it enacted, with regard to public gas works and other works heretofore established within the limits of this Act, so far as relates to the operation of the provisions of this act in reference to businesses dangerous in respect of fire or explosion, or offensive or noxious, That such provisions shall not be deemed to apply to any such public gas works, and that if by any act of parliament now in force relating to gas companies to which such works belong, any extension of such works, or any additional works, or any other works be authorized to be erected or substituted, then such provisions shall not be deemed to apply to any such extension, addition, or substitution within the limits of the district now lighted from such first-mentioned works, and that such provisions shall not be deemed to apply to any premises entered or used for the purpose of distillation or the rectification of spirits, under the survey of the commissioners of excise or their officers.

Extension or substitution of works.

Distilleries.

Surveyors, their Districts and Duties.

64. Appointment of districts.

LXIV. And now, for the purpose of dividing the district to which this Act is to apply into several smaller districts, for the convenient execution therein of this Act, and for appointing competent surveyors for superintending the same in each such district, and for regulating the duties of their office; Be it enacted, with regard to such districts, so far as relates to the appointment and alteration thereof, that at any time after this Act shall come into operation, and from time to time, it shall be lawful for the lord mayor and aldermen of the city of London, with reference to the city of London and the liberties thereof, and for the justices of the

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District Surveyors.

peace for the county of Middlesex, the county of Surrey, the county of Kent, the city and liberties of Westminster, and the liberty of her Majesty's tower of London, in their general quarter sessions respectively, or any adjournment thereof, with reference to their respective counties, city, and liberties, and they respectively are hereby empowered, but subject, nevertheless, to the consent of one of her Majesty's principal secretaries of state, to appoint the districts to which the respective places within their jurisdiction shall belong for the purposes of this Act, and to unite, enlarge, and alter such districts for the more convenient distribution of the business.

65. Appointment of surveyors.

LXV. And be it enacted, with regard to the surveyors to be assigned to such districts, for the purposes of this Act, so far as relates to their appointment, That at any time after this Act shall come into operation, and from time to time, it shall be lawful for the said lord mayor and aldermen of the city of London, with reference to the city of London and the liberties thereof, and for the said justices of the peace in their general quarter sessions respectively, or any adjournment thereof, with reference to their respective counties, and they are hereby required, but subject, nevertheless, to the consent of one of her Majesty's principal secretaries of state, to nominate and appoint, as surveyors, such and so many discreet persons, of the full age of thirty years, and properly educated and skilled in the art and practice of building, as they the said lord mayor and aldermen and the said justices shall think fit.

66. Practical qualifications of surveyors.

LXVI. And be it enacted, with regard to such surveyors to be hereafter appointed under this Act, except present district surveyors appointed to new districts, so far as relates to the ensuring the possession of due scientific and practical qualifications, That it shall be lawful for the commissioners of works and buildings, and they are hereby empowered to appoint three or more architects, surveyors or builders to examine, together with the said official referees, any persons who may present themselves to be examined for the purpose of obtaining a certificate of qualification, with the view

Examiners.

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of becoming candidates for the office of surveyors of metropolitan buildings of any district within the limits of this Act; And that for that purpose it shall be lawful for such examiners from time to time to appoint such times as to them may seem fit, and from time to time to prescribe such course of examination as to them may seem fit, and to make any other rules for the regulation of such examination and the granting of certificates in respect thereof, subject nevertheless to the approval of the commissioners of works and buildings; and that when such rules shall have been registered by the registrar of metropolitan buildings, they shall continue to be in force until they shall be amended, altered or rescinded by other rules to be made by such examiners and so registered as aforesaid; And that unless one week before the election of a surveyor for any district created by this Act, or for any district in respect of which the office of surveyor may become vacant, there be produced by or on the part of any person being candidate for the said office, a certificate of such examiners, certifying that he has been examined, and that he was thereby found to be duly qualified for such office, to the town clerk of the city of London, or to the clerk of the peace for the county, city or liberty, it shall not be lawful for any justices, by this Act empowered to appoint surveyors, to appoint such person to be such surveyor, and that if such person be so appointed, his election to such office shall be void.

District Surveyors.

Examiners to prescribe rules.

Production of certificates of examination.

67. LXVII. And be it enacted, with regard to such surveyors, so far as relates to the tenure of their office, That it shall be lawful for every such surveyor and he is hereby entitled to hold such his office of surveyor during the pleasure only of the said lord mayor and aldermen and of the said justices respectively.

Tenure of office.

68. LXVIII. And be it enacted, with regard to such surveyors, so far as relates to their functions generally, That it shall be the duty of every such surveyor, and he is hereby required,—

Functions generally.

To see that all the rules and directions of the Act are well and truly observed in and throughout his district; and for that purpose,

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District Surveyors.

To proceed from time to time in due course, upon the receipt of any notice, or if from ignorance or neglect, or from any other circumstance, notice of any work intended to be done have not been given, then, upon such work being observed by or being made known to him, to inspect the works intended to be done, or which shall have been commenced; and to cause all the rules and directions of this Act in respect thereof to be strictly observed; and also,

To attend and perform every thing required of him by this Act, whether with or without notice; and also,

To inspect ruinous buildings and projections in danger at all times when needful, and to take all necessary measures thereupon; and also,

To survey all buildings built, rebuilt, enlarged or altered by or under the superintendence of a district surveyor within any other district to which he shall be appointed by the official referees for that purpose; and also,

To cause a book for registering all notices, informations, and complaints to be at all times kept at his office, and to enter in such book every notice, information, or complaint which shall be delivered or made to him, and any proceeding thereon by him taken.

69. Disqualifications.

LXIX. And be it enacted, with regard to such surveyors, so far as relates to their disqualifications, That during the time that any such person shall act as a justice of the peace for the county in which his district shall be situated, it shall not be lawful for him, and he is hereby disqualified from holding the office of a surveyor or of deputy or an assistant surveyor for any district under this Act.

70. Continuance of present surveyors, 14 Geo. III. c. 78.

LXX. And be it enacted, with regard to the surveyors who, at the time of this Act coming into operation, shall have been appointed under the act of the fourteenth year of the reign of King George the Third, mentioned in the Schedule (A.), hereto annexed, so far as relates to their continuance in office, and the application of this Act to them, That until they shall be re-

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moved, it shall be lawful for them, and they are hereby entitled, to continue to be the surveyors for the purposes of this Act, and for the districts assigned to them at the time this Act shall come into operation, but subject to such alteration of such districts as may be made by virtue of any power in that behalf, and to act in all respects as if they had been appointed under this Act; and that every provision in this Act applicable to district surveyors, so far as relates to the exercise of the office of surveyor, and to their remuneration in that behalf, shall apply to them.

District Surveyors.

Subject to this Act.

LXXI. And be it enacted, with regard to every surveyor hereafter appointed, so far as relates to making a declaration of official fidelity, That, before any such surveyor shall act in pursuance of this Act, it shall be his duty, and he is hereby required, to make a declaration of official fidelity, which must be administered by the said lord mayor and aldermen in their court of aldermen, or by the said justices of the peace in their respective general quarter sessions, and must be in the form or to the effect following; that is to say,—

71. Declaration of official fidelity.

> "I, *A. B.*, being one of the surveyors appointed in pursuance of an Act made and passed in the eighth year of the reign of her Majesty Queen Victoria, intituled 'An Act for regulating the Construction, and the Use of Buildings in the Metropolis and its Neighbourhood,' and commonly called the Metropolitan Buildings Act, do solemnly declare, that I will diligently, faithfully and impartially perform the duties of my office, and to the utmost of my power, skill and ability endeavour to cause the several provisions of the said Act to be strictly observed, and that without favour or affection, prejudice or malice, to any person whomsoever."

And that if, before making such declaration, any such surveyor act in pursuance of this Act, then, on conviction thereof, he shall be liable to pay, for every day during which he shall so act before making such declaration, the sum of five pounds.

Penalty for acting before declaration made.

LXXII. And be it enacted, with regard to the sur- 72.

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District Surveyors.

veyors, so far as relates to the regulation of their official duties, That it shall be the duty of every surveyor for the city of London and the liberties thereof, and he is hereby required, to have an office, at his own expense, in such public situation as shall be approved by the lord mayor and aldermen; And that it shall be the duty of every other surveyor, and he is hereby required, to have an office, at his own expense, in some central part of the district to which he shall be appointed, as shall be approved by the justices of the peace in quarter sessions, within whose jurisdiction he shall act; And that it shall be the duty of every such surveyor, and he is hereby required, by himself, or by some other person in his behalf, to attend at his office every day (Sundays, Christmas-day and Good Friday excepted) from ten of the clock in the morning till four of the clock in the afternoon; And that immediately upon his appointment, and from time to time, upon every change of his residence, or of his place of business, or oftener if required, it shall be the duty of every surveyor, and he is hereby required, to make a return to the registrar of metropolitan buildings, and to the overseers of the poor of every parish or place within his district, of his name and place of abode and the place where such office shall be.

Regulation of duties.

Offices.

Attendance.

Return of name and residence.

73. Surveyor pro-tempore.

LXXIII. And be it enacted, with regard to such surveyor, so far as relates to the appointment of a deputy or substitute in certain cases, That if any surveyor shall be prevented by illness, or any other unavoidable circumstances, from attending to the duties of his office, then forthwith it shall be his duty and he is hereby required, but subject to the previous consent and approval of the official referees, to appoint some other surveyor, duly qualified as aforesaid, as his deputy to perform all such his duties for so long a time as he shall be so prevented from executing them; And that thereupon, during such time as aforesaid, it shall be the duty of such deputy surveyor and he is hereby required to perform all the duties of such surveyor, and that in all respects as if he were the surveyor appointed or confirmed under this Act; And that it shall be lawful for

Duty of deputy.

Fees.

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such deputy surveyor and he is hereby entitled to receive the fees payable in respect of the services so performed by him in such district. *District Surveyors.*

LXXIV. And be it enacted, with regard to such surveyors, so far as relates to the filling up of vacancies, That if any vacancy shall happen through the death or removal of any surveyor, then, within one month thereafter, it shall be the duty of the lord mayor and aldermen or of the justices of the peace in general quarter sessions or any adjournment thereof, as aforesaid, and they are hereby respectively required, to appoint a successor as herein directed; And that, in the meantime, it shall be lawful for the official referees to direct the surveyor of any one or more of the other districts to perform the duties of surveyor for the vacant district; or if no district surveyor can be spared from his own district, to appoint some other competent person duly qualified as aforesaid for that purpose; And that every such surveyor is hereby entitled to receive the fees payable in respect of the services so performed by him in such vacant district. 74. Vacancies. Occasional services. Fees for services.

LXXV. And be it enacted, with regard to the surveyors, so far as relates to the regulation of their business, That if it shall appear to the official referees that the district appointed for any surveyor is too extensive for the prompt discharge of his functions, then it shall be their duty to represent such their opinion to the lord mayor and aldermen of the city of London, or to the justices of the peace with whom the appointment of a surveyor for that district may rest; and for that purpose to transmit with their letter of representation a transcript of their "register of notices," with the results; And that if at any time it appear to such official referees, that on account of the pressure of business in any district, or on any other account, the surveyor of that district cannot discharge his duties promptly, as regards the builders and others engaged in building operations, and efficiently as regards the purposes of this Act, then it shall be lawful for such official referees, and they are hereby empowered, to appoint any other district surveyor to assist the surveyor 75. Regulation of business. Assistant surveyors

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District Surveyors.

of such district in the performance of his duties; or if no district surveyor can be spared from his own district, then to appoint some other competent person to give such assistance; And that with regard to all buildings surveyed by such assistant surveyor, and all other acts done by him, it shall be the duty of such assistant surveyor to make returns, and to act in all respects as if he had been appointed by the said lord mayor and aldermen, or by the said justices, to be the surveyor of such district; And that every such person shall be entitled to receive the fees payable in respect of the services so performed by him.

Duties of assistants.

Fees.

76. Superintendence of surveyors.

LXXVI. And be it enacted, with regard to such surveyors, so far as relates to the supervision of buildings, built, rebuilt, enlarged or altered by or under their professional superintendence, That it shall not be lawful for any such surveyor to survey any such building for the purposes of this Act; But that such building must be surveyed by another district surveyor, or by another surveyor to be appointed by the official referees for that purpose.

77. Surveyor's Fees.

LXXVII. And be it enacted, with regard to such surveyors, so far as relates to their remuneration, That upon the expiration of one month after the roof of any building erected and surveyed under this Act, shall have been covered in, and all the walls thereof have been built to their full heights, and the principal timbers and floors shall have been fixed in their places, and upon the expiration of fourteen days after the completion of any addition, alteration and repair, and upon the expiration of fourteen days after each special service shall have been performed, and upon delivering to the owner of the building an account of the fees incurred, and upon tendering a receipt, signed with his christian and surname, and stating the amount of such account and the work done, it shall be lawful for the surveyor, and he is hereby entitled to receive from the builder, or from the owner, or from the occupier of the building for his time and trouble and expenses in causing the rules, regulations and directions of this Act to be observed, the several fees specified in the Schedule

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of Fees (L.) hereunto annexed; And that if, on tender of such receipt, any builder, owner or occupier who shall become liable to pay any such fee shall refuse to pay the same, then, upon application to any justice of the peace, it shall be lawful for such justice, and he is hereby required to summon the party complained of in the first instance, and if he do not appear, or if he fail to satisfy the said justices as to the refusal of payment as aforesaid, it shall be lawful for such justice, and he is hereby required to issue his warrant to levy the amount of such fee by distress and sale of the goods and chattels of the party so refusing, in like manner as poor's rates are by law recoverable, and if such fee be paid by the occupier, he shall be entitled to recover the amount thereof from the owner: Provided always, That if the work in respect of which such fee shall become payable have not been done in every respect agreeably to the directions of this Act, then it shall not be lawful for any surveyor to receive such fee; And that if he shall so receive it, then, upon application to the official referees by any party interested in the building in respect of which such work shall have been executed, and upon its appearing that such fee has been received wrongfully, it shall be lawful for such official referees, and they are hereby authorized (if they think fit) to order the said surveyor to refund such fees.

District Surveyors.

Refusal of payment.

Fees to be paid only for work done agreeably to Act.

Refunding fees.

78. Surveyor' returns.

LXXVIII. And be it enacted, with regard to such surveyors, so far as relates to a return of the business done by them, and to the inspection thereof, That, within seven days after the first day of every month, it shall be the duty of every surveyor, and he is hereby required to make a return to the registrar of metropolitan buildings, enumerating therein the number and nature of all the several works executed within the previous month under his supervision, and the fees paid to him for the same, and also a copy of the list or register of notices served upon him, with the results thereof, and to keep in his office a copy of such return; And that if any person shall apply to inspect the same, then on the payment of one shilling, it shall be open for inspection, at all reasonable times; And with re-

Inspection of returns.

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District Surveyors.

gard to such return, so far as relates to the authentication and effect thereof, That every such return must be signed by such surveyor, and if so signed, it shall be deemed to be a certificate that all the works enumerated therein have been done in all respects agreeably to this Act, according to the best of his knowledge and belief, and that they have been duly surveyed by him; but no such return shall be any protection from, or hindrance to, any future proceedings in respect of works not executed according to the provisions of this Act, though the same may have been done before the making of such return.

Authentication and effect of returns.

79. Penalty for extortion, negligence or unfaithfulness.

LXXIX. And be it enacted, with regard to every surveyor, so far as relates to the discharge of his duties, That if any surveyor demand or wilfully receive any higher fee than he shall be entitled to under this Act, or if in his capacity of surveyor he receive a fee for any act or omission in respect of which he is not entitled to receive any remuneration, or if he refuse to refund any fee wrongfully received by him, in respect whereof the official referees shall have made an order to that effect; or if at any time he wilfully neglect his duty, or behave himself negligently or unfaithfully in the discharge thereof, then and in every or any such case it shall be lawful for any person to present a complaint in writing under his hand to the lord mayor and aldermen of the city of London, or the court of quarter sessions having jurisdiction over the district for which such surveyor shall act for the time being, at any sessions of the peace, quarter or general, either original, intermediate, or adjourned, and which complaint shall set forth the nature and particulars of the offence charged by the complainant against any such surveyor; and that the said lord mayor and aldermen or court of sessions, as the case may be, shall by order of court appoint a time for the hearing of the said complaint, and a copy of which order and of the said complaint shall be served by or for the said complainant on the said surveyor ten days at the least before the time appointed for the hearing of such complaint; and the said surveyor shall appear before the said lord mayor and aldermen or court of

Complaint to justices.

Proceedings thereon.

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sessions, as the case may be, at the time and place so appointed for hearing the said complaint, to answer the same; and that if, upon the hearing of the complainant and of the surveyor, and the evidence respectively produced by or for them, it shall appear unto the said lord mayor and aldermen or court of sessions, as the case may be, that such complaint in whole or in part is well founded, then it shall be lawful for the said lord mayor and aldermen, or the said court of quarter sessions, as the case may be, and they are hereby respectively required, either to fine such surveyor in such sum of money not exceeding fifty pounds as they shall think fit, or to discharge him forthwith from his said office; And that if for any such cause such surveyor be discharged, he shall be incapable of being again appointed a surveyor for the purposes of this Act.

District Surveyors.

Decision.

Incapacitation of surveyor.

Official Referees.

80. Appointment of two official referees.

LXXX. And now, for the purpose of providing for the appointment of competent official referees to superintend the execution of this Act throughout all the districts to which it is applicable, and also to determine sundry matters in question incident thereto, as well as to exercise, in certain cases, a discretion in the relaxation of the fixed rules and directions of this Act, where the strict observance thereof is impracticable, or would defeat the object of this Act, or would needlessly affect with injury, the course and operation of this branch of business; Be it enacted, with regard to the official referees, so far as relates to their appointment, to their qualifications and to the tenure of their office, That it shall be lawful for one of her Majesty's principal secretaries of state, and he is hereby empowered to appoint two persons, being of the profession of an architect or surveyor, to be official referees of metropolitan buildings, and from time to time, as he shall think proper, to remove such official referees, and in their place to appoint other persons so qualified; And that while any such person shall so hold the office of official referee, it shall not be lawful for such person, and he is hereby expressly prohibited to act as surveyor, either alone or with any partner, or by an agent, or to act as

Tenure of office.

Not to act as surveyors.

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Official Referees.

official referee in the case of any building or matter in which he shall act as architect, and that if an official referee be employed as architect as to any building or matter within the limits of this Act, then it shall be the duty of such official referee and he is hereby required to report thereon to the commissioners of works and buildings; and thereupon it shall be the duty of such commissioners of works and buildings and they are hereby required to appoint some other competent person to act in conjunction with the other official referee as to such building or matter.

Temporary official referee.

81. Their functions generally.

LXXXI. And be it enacted, with regard to such official referees, so far as relates to their functions generally, That it shall be the duty of such official referees and they are hereby required to superintend the execution of this Act, by the several district surveyors already existing, or hereby authorized to be appointed, and to perform the several matters to them respectively assigned by the provisions of this Act, and to determine all questions referred to them, whether expressly by this Act, or at the instance of any one or more of the parties concerned.

82. Matters of reference.

LXXXII. And be it enacted, with regard to the official referees, so far as relates to their jurisdiction, That if any doubt, difference or dissatisfaction, in respect of any matter within the limits of this Act, arise between any parties concerned, or between any party and any surveyor, or between any two surveyors, as to any act done or to be done in pursuance of this Act; or as to the effect of the provisions thereof in any case; or as to the mode in which the provisions and directions of this Act are or ought to be carried into effect; and particularly as to whether the requirements implied in terms of qualification, applied to sites, to soils, to materials, or to workmanship or otherwise, and denoting good, sound, fire-proof, fit, proper, or sufficient, are fulfilled in certain cases; or as to the district in which any building, matter or thing is to be deemed to be situate, especially in cases where such building, matter or thing is partly in one district and partly in another; or as to the expenses to be borne by the respective

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owners of premises parted by the same party-walls, or the proportions thereof; or as to the proportions of the expense to be borne by the occupier, or by the owners of premises, in respect of any work executed or any other matter whatever; then it shall be lawful for any party concerned, and he is hereby entitled, to require the official referees to determine such matter, but so that such requisition be made in writing, and that it set forth, either generally or otherwise, the matters in respect of which the determination of the official referees is required; And that the determination of such referees, or of one of such referees, with the assent of the registrar of metropolitan buildings, as to all or any of the points in difference on which such referees shall make their award, and as to the costs, charges, and expenses of such reference, shall be binding on all parties to such reference.

Official Referees.

One referee may act.

LXXXIII. And be it enacted, with regard to the official referees, so far as relates to their authority in respect of any reference to them, and to the effect of their award upon the rights and interests of the owners and occupiers of property, That it shall be lawful for such referees and they are hereby empowered to exercise all such powers of arbitrators as they would have had in case they had been appointed under an order of her Majesty's Court of Queen's Bench at Westminster; And that if such award be given in writing, and be sealed by the official seal of the registrar of metropolitan buildings, it shall be as effectual as if made under an order of reference by such court, and shall be enforced by the said

83. Award and powers of referees.

Taking this clause in connection with the succeeding, the effect and force of these awards appears to be as follows:—So soon as they are made, they bind not only the persons whose interests are immediately affected by them, but taking effect, as it were, on the property in dispute, they are conclusive against all who either have or may have any property therein. But if any document of this description be produced as evidence in any cause, it is not to be considered as conclusive evidence of the matters contained therein, so as to preclude the parties from disputing them; but only as *primâ facie* evidence, liable to be invalidated or rebutted by any other testimony brought forward.

Legal effect of awards.

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Official Referees.

court in all respects as if made under an order of such court; And that it shall be binding and conclusive against every person, including the Queen's Majesty, her heirs and successors, claiming any estate, right, title, trust, use or interest in, to or out of the said premises or any part thereof, either in possession, reversion, remainder or expectancy, and against every other person whomsoever.

Effect as to persons.

84. Revocation of authority of official referee.

LXXXIV. And be it enacted, with regard to any reference to the said official referees, so far as relates to the revocation of their authority, That the power and authority of the official referees shall not be revocable by any party to such reference without the consent of all parties thereto; And that although any party shall not attend upon such reference, it shall be lawful for such official referees to proceed with the reference and to make their award.

Not to affect their award.

85. Taking of evidence by the official referees.

LXXXV. And be it enacted, with regard to such reference, so far as relates to the evidence of any matter thereof, That it shall be lawful for the official referees, and they are hereby empowered by their summons in writing, sealed with the seal of office of the registrar of metropolitan buildings, to require the attendance of any person who may be able to give evidence in the matter of any reference to them, and to require by such summons the production of any documents to be mentioned therein; And that if in addition to the service of such summons an appointment of the time and place of attendance in obedience thereto, signed by one at least of the official referees before whom the attendance is required, be also served either together with, or after the service of, such summons, then if the party so summoned do not attend in obedience thereto, such party shall be liable to be proceeded against as for a contempt of court; And that every person whose attendance shall be required shall be entitled to the like conduct money and payment of expenses as for and upon attendance at any trial; And that no person shall be compelled to produce under any such summons any writing or other document that he would not be compelled to produce at a trial, or to attend on more than

Appointment of time and place.

Compensation for attendance.

Production of documents.

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two consecutive days to be named in such summons; And that it shall be lawful for the official referees, and they are hereby respectively authorized and required to administer an oath to such witnesses as may come before them, or in cases where affirmation is allowed by law, instead of an oath, to take their affirmation; And that if upon such oath or affirmation, any person making the same, wilfully and corruptly give false evidence, then every person so offending shall be deemed to be guilty of perjury.

Official Referees.

Administration of oaths.

Penalty for false evidence.

86. LXXXVI. And be it enacted, with regard to such award, so far as relates to the effect thereof as evidence of the matter thereof, That if on the trial or hearing of any cause or matter in any court of law or equity, or elsewhere, any copy of an award, signed and sealed with the seal of the said registrar, be produced, then it shall be the duty of all judges, justices and others, and they are hereby required to receive the same as *primâ facie* evidence of the matters therein contained.

Effect of awards as evidence.

87. LXXXVII. And be it enacted, with regard to the official referees, so far as relates to the declaration of official fidelity, That before any official referee shall act in pursuance of his appointment, it shall be his duty and he is hereby required to make the following declaration, to be administered by the chief baron or any other of the barons of her Majesty's Court of Exchequer; that is to say,—

Declaration of official fidelity.

"I, *A. B.*, do solemnly declare, That I will diligently, faithfully, and impartially execute the duties of an official referee in relation to matters arising under the provisions of the Act made and passed in the eighth year of the reign of her Majesty Queen Victoria, intituled 'An Act for regulating the Construction and the Use of Buildings in the Metropolis and its Neighbourhood,' and commonly called The Metropolitan Buildings Act."

88. LXXXVIII. And be it enacted, with regard to such official referees, so far as relates to the regulation of the business of their office, That when any matter is by this Act required, directed or permitted to be done by

Regulation of business of the official referees.

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Official Referees.

the official referees, the same may be done by either of them, with the assent of the registrar of metropolitan buildings, unless express provision to the contrary be made, and if done by any one of them with such assent, it shall be as valid and effectual as if done by both of them; And that, subject to such restrictions and regulations as may be made in that behalf by the commissioners of works and buildings it shall be lawful for the official referees to appoint one of their number, under their hands and the seal of the registrar of metropolitan buildings, to make any inquiry or any survey which shall appear to them either necessary or expedient in order to enable them to determine any matters in reference.

Official referees may delegate powers.

Registrar of Metropolitan Buildings.

89. Appointment of registrar.

LXXXIX. And, for the purpose of duly recording relaxations of the requisitions of this Act, made in pursuance of the provisions hereof in that behalf, and of providing for the revision from time to time both of such relaxations and requisitions, and of providing against the partial exercise of the powers of this Act, and for the more effectually providing for the due recording of the acts of the official referees, and for exercising a due control thereon; Be it enacted, That it shall be lawful for the commissioners of works and buildings, and they are hereby authorized and required to appoint a registrar of metropolitan buildings; And that such registrar shall hold his office during the pleasure of the said commissioners; And that, subject to the provisions of this Act, it shall be lawful for the said commissioners to make rules for regulating the execution of the duties of the office of the said registrar; And that it shall be the duty of such registrar to keep a seal, and to affix such seal to all documents made by the said official referees, and required to be sealed; and to keep all the documents and records relating to the business of their office, and to register the same: Provided always, with regard to such registrar, so far as relates to the affixing the seal of office to any document, That if it shall appear to the said registrar that any such documents are contrary to law, or not complete in any of the requisite forms, or beyond

Tenure of office.

Rules of office.

Seal of office.

Use of seal of office.

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the competence of the said official referees, either with regard to the provisions of this Act or any rules or regulations prescribed for their guidance, by the said commissioners of works and buildings, then it shall be the duty of the said registrar to refuse to affix the seal; And that thereafter, if the said official referees shall so require, it shall be his duty and he is hereby required to report the matter and the particular grounds and reasons for his refusal to the said commissioners; And that upon the receipt of such report it shall be lawful for the said commissioners to authorize the said registrar to affix the seal or to confirm his refusal: Provided always, with regard to such office of registrar, so far as relates to the execution of his duties in certain events, That if such registrar be ill or otherwise unable to discharge the duties of his said office, or if he be absent, then it shall be lawful for the said commissioners of works and buildings to appoint some other person to act temporarily in his behalf, and to assign to such person such part of the remuneration of the said registrar, or otherwise to remunerate him as the lords of the treasury shall appoint in that behalf.

Registrar of Metropolitan Buildings.

Report of objections by registrars.

Authority of commissioners of works.

Interim registrar.

90. Declaration of official fidelity.

XC. And be it enacted, with regard to the registrar, so far as relates to the declaration of official fidelity, That before any registrar shall act in pursuance of his appointment, it shall be his duty and he is hereby required to make the following declaration, to be administered by the chief baron, or any other of the barons of her Majesty's Court of Exchequer; that is to say,—

> "I, *A. B.*, do solemnly declare, That I will diligently, faithfully and impartially execute the duties of registrar in relation to matters arising under the provisions of an Act made and passed in the eighth year of the reign of her Majesty Queen Victoria, intituled 'An Act for regulating the Construction and the Use of Buildings in the Metropolis and its Neighbourhood,' and commonly called The Metropolitan Buildings Act."

91. Custody and

XCI. And be it enacted, with regard to such awards,

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Registrar of Metropolitan Buildings.

certificate and other records of the said official referees, so far as relates to the custody and the inspection thereof, That all such awards, certificates and other documents relating to the business of their office shall be kept in the office of the registrar of metropolitan buildings; And that if, for the purpose of evidence or otherwise, any party require a copy of such award, or certificate or other document, or to inspect the same, then, on payment of the expense thereof, and of such fees as may be appointed in that behalf, it shall be lawful for such party, and he is hereby entitled to demand from the registrar an inspection thereof, or a copy thereof or extract therefrom; And that, on such payment and demand, it shall be the duty of such registrar, and he is hereby required to give, under his hand and seal of office, a copy of any such award, or any other document, to the person so demanding the same.

Inspection of records of official referees.

Copies of awards, certificates, &c.

Authentication of copy, and fees therefor.

92. Office of registrar, and regulation of business.

XCII. And be it enacted, with regard to the registrar of metropolitan buildings, so far as relates to his office or place of business, and to the regulation of the business thereof, That it shall be lawful for the commissioners of works and buildings, and they are hereby required to appoint, in some central and convenient situation within the city of London or the city of Westminster, an office for carrying on the business of the registrar of metropolitan buildings, and registering all documents relating to such business; and in such office it shall be the duty of such registrar and he is hereby required—

To keep a register of all matters referred to the official referees, and otherwise of all matters which shall come under their cognizance in pursuance of this Act; and also,

To keep and preserve all documents connected with the duties of official referees; and also,

To receive all notices requiring any act to be done by them, and to file and number them in the order in which they are received.

93. Registration

XCIII. And be it enacted, with regard to all the awards and certificates, and all documents relating to

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the business of the official referees, so far as relates to the registration thereof, That the same shall be registered not only chronologically in the order in which they are received, but according to the subject-matters thereof, and also according to the order of and in relation to the provisions of this Act. *Registrar of Metropolitan Buildings.* — of awards, &c.

94. Remuneration of official referees and registrar.

XCIV. And be it enacted, with regard to such official referees and registrar, so far as relates to their remuneration, That it shall be lawful for her Majesty to grant to each of such official referees, and the said registrar a salary not exceeding one thousand pounds by the year, in four equal quarterly payments; And that if any such official referee or such registrar shall be appointed, or shall die, resign or be removed from office, in the interval between two quarterly days of payment, then he shall be entitled to a proportionate part of the salary for the period of such interval during which he shall hold such appointment.

95. Disqualification of official referees and registrar.

XCV. Provided always, and Be it enacted, with regard to the said official referees and registrar, so far as relates to their qualifications, That if any person be or become commissioner, receiver, steward or agent for or on behalf of any owner of houses within the limits of this Act, then such person shall not be eligible to the office either of official referee or of registrar under this Act; And that if after having been appointed thereto, he shall become such commissioner, receiver, steward or agent, then he shall cease to be qualified to hold such office of official referee or registrar, and thereupon such office shall be vacant without prejudice nevertheless to any acts done by any such person in his capacity of official referee or registrar, so far as other persons are affected thereby. Offices vacant.

96. Funds for defraying expenses of the official referees and registrar.

XCVI. And forasmuch as the services of such official referees and of such registrar, will be employed chiefly on behalf of the localities comprised within the limits of this Act, it is expedient to provide for the payment of a portion of their salaries by means of a county rate, or by a rate in the nature of a county rate on such localities, in proportion to the assessed value of inhabited houses and buildings therein, or as near thereto as may

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Registrar of Metropolitan Buildings.

be; Now, for that purpose, Be it enacted, with regard to such official referees and registrar, so far as related to the payment of a portion of their salaries out of local funds, That it shall be lawful for the lord mayor and aldermen of the city of London, and they are hereby required, to direct the chamberlain of the said city, and for the justices of the peace for the several counties of Middlesex, Surrey and Kent, and they are hereby respectively required to direct the treasurer of such respective counties to pay, by two half-yearly payments, in the months of June and December in every year, to or into the hands of the cashier of the commissioners of works and buildings, on account of the said official referees and of the said registrar, the several sums of money hereinafter mentioned, as and by way of contribution to such salaries; that is to say,—

The city of London, and the liberties and the suburbs thereof . . .	the sum of £100
The county of Middlesex . . .	1,000
The county of Surrey . . .	320
The county of Kent . . .	80
	£1,500

And it shall be lawful for the said justices, and they are hereby empowered and required to cause the same to be levied by a rate upon the several parishes and places within the limits of this Act, in such amounts as to such justices may seem proper, having regard to the assessed value of the inhabited houses and the buildings in such places respectively, in addition to the county rate in respect thereof; And that for the purpose of levying such sums, they shall be deemed to be part of the county rate, and leviable by all the ways and means by which a county rate is leviable, and subject in all respects to the legal incidents of a county rate.

Nature of levy.

97. *Payments of official referees and registrar out of consolidated fund.*

XCVII. And be it enacted further, with regard to the official referees and registrar, so far as relates to the payment of the balance of their salaries, That such balance shall be payable and paid out of the consoli-

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dated fund of the United Kingdom of Great Britain and Ireland.

Registrar of Metropolitan Buildings.

XCVIII. And be it enacted, with regard to the fees payable to the registrar, so far as relates to the appointment thereof, and to the application thereof, That from time to time it shall be lawful for the commissioners of the treasury to appoint such fees to be paid in respect of the services to be performed by the said official referees or by the said registrar, as shall be deemed requisite to defray the expenses of the said office or incident to such services, and the salaries or other remuneration of any persons employed under the registrar in the execution of this Act, with the sanction of the commissioners of the Treasury, and which are not otherwise provided for by this Act; And that the balance, if any, shall be carried to the consolidated fund of the United Kingdom, and be paid accordingly into the receipt of her Majesty's exchequer at Westminster; And that it shall be lawful for the commissioners of the treasury to regulate the manner in which such fees are to be received, and in which they are to be kept, and in which they are to be accounted for; And that it shall be the duty of the registrar and he is hereby required to cause a list of the fees so appointed by virtue of this Act to be fixed up in some conspicuous part of his office.

98. Fees of office and application thereof. Balance to consolidated fund. Regulations as to receipt, custody and accounts. List of fees to be hung up.

Officers generally.

XCIX. Provided always, and Be it enacted with regard to the officers appointed by or by virtue of this Act, so far as relates to the functions, appointment, and tenure of office of such officers, that any appointments to such offices which shall be made by virtue of this Act, shall be made subject to any provision that may be made by any act of parliament hereafter to be passed, for assigning other duties than those to be imposed by virtue of this Act; and such offices shall be held not only subject to the pleasure of the officers and justices by whom such appointments shall be made, but also subject to the provisions of any future act of parliament in relation thereto.

99. Appointments of officers subject to regulation by any future act.

Legal Proceedings.

C. And now, for the purpose of regulating sundry legal proceedings, Be it enacted, with regard to any

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Legal Proceedings.

distress for any sum of money to be recovered by virtue of this Act, so far as relates to the remedying of any

Informalities in distress.

damage occasioned by any irregularity therein or in reference thereto, That notwithstanding there be any defect of form in the proceedings relative to any such distress, neither the distress itself shall be deemed unlawful, nor shall the party making the same be deemed

Action for damages.

a trespasser *ab initio*; But that if any irregularity be committed by any party, then, subject to the conditions in this Act prescribed with regard to actions brought for any thing done in pursuance thereof, it shall be lawful for the person aggrieved by such irregularity and he is hereby entitled to recover full satisfaction for the special damage only, and that by action on the case, and not by any other action whatsoever.

101. Tender of amends.

CI. And be it enacted, with regard to any action for any irregularity or other proceeding, so far as relates to the tender of amends or payment of money into court in respect thereof, That if, before such action be brought, the party who committed or caused to be committed any such irregularity or wrongful proceeding, make or cause to be made tender of sufficient amends, then the plaintiff shall not be entitled to recover in

Payment of compensation into court.

such action; And that although such tender shall not have been made, yet if at any time before issue joined the court in which such action shall be depending, or a judge of any of the superior courts grant leave, then it shall be lawful for the defendant to pay into court any sum of money, by way of compensation or amends, in such manner and under such regulations, as to the payment of costs and the form of pleading, as is and are customary and in force in the said superior courts.

102. Recovery of money under awards.

CII. And be it enacted, with regard to every sum of money by this Act, or by any award or certificate or other proceeding in pursuance of or in accordance with this Act, charged upon any person in respect of any work done in pursuance of or in accordance with this Act, so far as relates to the recovery of such sum of money, That if any party claim any such sum of money then it shall be lawful for any one justice of the peace to summon the person on whom such sum is alleged to

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be charged before any two justices; or if the matter arise within the district of the metropolitan police, then before any police magistrate having jurisdiction within that district; and if such award or certificate be produced, or if such other proceeding be proved by the oath of the party claiming or of any other credible witness, and if it be proved by the oath of such party or other witness that such sum of money is still due, then it shall be lawful for such justices or such police magistrate, and they respectively are hereby required to issue a warrant to levy the amount thereof, and also the costs of the proceeding to be levied by distress of the goods and chattels of the person in default; And if such person have no goods and chattels whereon to distrain, or if such goods and chattels be insufficient for that purpose, then it shall be lawful for such justices or police magistrate, or for any other justice or police magistrate, to commit the person in default until the amount of such sum so due, and of such costs, shall have been fully paid, or until the party shall be discharged by or in accordance with the provisions of any act for the relief and discharge of insolvent debtors.

Legal Proceedings.

Distress.

Imprisonment.

103. CIII. And be it enacted, with regard to all offences against the provisions of this Act for which no other proceeding is provided, so far as relates to the prosecution thereof, That it shall be lawful to proceed by complaint before any one justice of the peace, or before a police magistrate as aforesaid; And that it shall be lawful for such justice to summon the party against whom such complaint shall be made; And that if such party fail to appear in pursuance of such summons, then it shall be lawful for such justice or magistrate, or any other justice or magistrate, to issue a warrant under his hand and seal, to compel the appearance of such party; And that on conviction of the offender before two justices, or before any police magistrate, it shall be the duty of such justices or magistrate, and they are hereby required, to cause the amount of the penalty hereby imposed in respect of such offence, and of the costs of any such proceeding in respect of such offence, to be levied by distress of the goods and chattels of the

Prosecution of offences.

Complaint.

Summons.

Compulsory appearance.

Distress.

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Legal Proceedings.

Imprisonment.

offender; And that if such offender have no goods and chattels whereon to distrain, or if they be insufficient for that purpose, then it shall be lawful for such justices or magistrate, or for any other justice or magistrate, and they are hereby empowered, either on failure of such distress or in the first instance, to commit the offender for any period not exceeding three months, or till he shall have paid the full amount of such penalty and such costs.

104. Removal of orders, &c. into superior courts;

CIV. And be it enacted, with regard to every order which shall be made by virtue of or under this Act, and to any other proceeding to be had touching the conviction of any offender against this Act (except proceedings touching the conviction of any person offending for carrying on a trade or business offensive, noxious or dangerous, contrary to this Act, otherwise than those hereinbefore specified), That it shall not be lawful for any person to remove such order or other proceeding by certiorari, or any other writ or process whatsoever, into any of her Majesty's courts of record at Westminster; and every such order and other proceeding is hereby declared not to be so removable.

Certiorari.

105. Appeal from convictions as to penalties.

CV. And be it enacted, with regard to any conviction for any offence in respect of which a penalty is by this Act imposed, so far as relates to the appeal from any such conviction in respect thereof, That if any party be dissatisfied with the decision of the justices in any case in which such penalty may be proceeded for, and if within four days after such decision, notice be given by or on behalf of such party to the party appealed against of his intention to appeal against such decision, and of the grounds of such appeal; and if the appellant enter into a recognizance with two sufficient sureties conditioned to prosecute such appeal, and to abide the order of the court, and to pay to the party appealed against such costs (if any) as shall be awarded against him, then it shall be lawful for such party so dissatisfied to appeal against such conviction to the justices of the peace at their general quarter sessions of the peace, to be holden within four months after such conviction; And that if within such period of four days

Proceedings thereon.

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such appellant have entered into such recognizance as is herein required, then it shall be lawful for such justices, and they are hereby empowered to proceed to hear and examine on oath into the cause and matters of such appeal (which oath they are hereby empowered to administer), and to determine the same, and to award such costs to be paid by either of the said parties as they think proper, and the order, judgment and determination of the said justices shall be binding and conclusive. *Legal Proceedings.*

106. Limitation of actions for penalties.

CVI. And be it enacted, with regard to every penalty or forfeiture incurred under this Act, so far as relates to the limitation of proceedings for the recovery thereof, That if, within six calendar months next after such penalty or forfeiture shall have been incurred, an action or prosecution be not brought or commenced against the person liable in respect thereof, then thereafter it shall not be lawful for any person to bring such action or commence such proceeding in respect of such penalty or forfeiture.

107. Recovery of penalties. Appropriation.

CVII. And be it enacted, with regard to every such penalty or forfeiture, so far as relates to the recovery and the appropriation thereof, That it shall be lawful for any party to sue or proceed for the same; And that if such penalty be not otherwise specifically appropriated, then the person so suing or proceeding shall be entitled to receive one-half thereof for his own benefit, and the other half shall be applied to her Majesty's use, and shall be paid to the sheriff of the county, city or town where the same shall have been imposed; and that all convictions before justices shall be returned to the court of quarter sessions, under the provisions of an act passed in the third year of the reign of his late Majesty King George the Fourth, intituled "An Act for the more speedy Return and levying of Fines, Penalties and Forfeitures, and Recognizances estreated," and shall be paid to the sheriff of the county, city or town, and shall be duly accounted for by him. 3 Geo. IV. c. 46.

108. Regulation of actions against per-

CVIII. And, for regulating proceedings against persons acting in pursuance of this Act; Be it enacted, with regard to any action or suit against any person

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Legal Proceedings.

sons acting under this Act.

in respect of any act or thing done or intended to be done in pursuance of this Act, so far as relates to the limitation thereof, and to the notification thereof to the offending party, and to the venue thereof, and to the pleadings therein, and to the evidence of the matters thereof, and to the verdict therein, and to the judgment of the court thereon, and to the costs of such action, and to the recovery of such costs, That, after the expiration of six months next after the fact committed, it shall not be lawful to bring any such action or suit against any person in respect of any such act; And that if twenty-one days at the least before the commencement of the action or suit, notice in writing of an intention to bring such action or suit, and of the grounds of action, be not given to every person against whom such action or suit shall be brought, then it shall not be lawful for any person to bring any such action or suit against any person in respect of any such act; And that if the cause or matter of any such action or suit arise within the said city of London or the liberties thereof, then such

Limitation of action.

Notice of action.

Venue in London.

With regard to the protection afforded by this statute to those who *bonâ fide* act in pursuance of its provisions, it may be observed generally, that if the intention is, fairly and honestly to act as the statute directs, although it turn out that the thing done is not justified by the statute, yet its protection may be claimed. If it were otherwise, these protecting clauses would be nugatory; for a party who pursues the enactments correctly as well as honestly, has no need of protection, for no action would lie against him, if the law were not infringed. The object is to protect those who, intending to act on the provisions of the statute, mistake its directions, and err without fraud or malice. Under the former act, it was held, that if a person, *bonâ fide* intending to pursue the authority of the statute, erected a party-wall, without, in fact, pursuing the directions therein given, and thereby injured his neighbour, he was liable to an action; but the action must be brought after twenty-one days' notice, and within three months of the injury done.—*Pratt* v. *Hillman*, 6 D. & R. 360; 4 B. & C. 269.

The former act, which authorized the raising of a party-wall, did not protect a party from liability for any collateral damage resulting from the building so erected; and an action was held maintainable by the occupier of an adjoining house, on a case for heightening and building on a party-fence-wall, whereby his windows were darkened.—*Wells* v. *Ody*, 1 M. & W. 452; 7 C. & P. 410.

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action or suit must be laid in the city of London, and not elsewhere; And that if the cause of any action or suit arise in any part of the limits aforesaid, out of the said city of London and liberties thereof, then it must be laid and tried in the county of Middlesex, and not elsewhere; And that in every such action or suit it shall be lawful for the defendant, and he is hereby entitled, to plead the general issue; and at the trial to be had thereof, to give this Act and the special matter in evidence, and to prove that the matter or thing for which such action or suit is brought was done in pursuance and by the authority of this Act; And that if, upon the trial of such action, it appear that the said matter or thing has been done by the authority or in pursuance of this Act, or if it appear that such action or suit was brought before the expiration of twenty-one days after such notice given as aforesaid, or if it appear that sufficient satisfaction was made or tendered before such action was brought, or if upon plea of payment of money into court, it shall appear that the plaintiff has not sustained damages to a greater amount than the sum paid into court, or if any such action or suit be not commenced within the time herein for that purpose limited, or if it be laid in any other county or place than as aforesaid, then and in every such case it shall be the duty of the jury, and

Legal Proceedings.

In an action for such an injury, no notice is necessary, nor need it be brought within three months of the time of building the wall.

Venue in Middlesex.

If any act of trespass complained of, was done with a *bonâ fide* intention to pursue the directions of the statute, though it be not justified by it, the defendant is entitled to notice of action, and under the plea of not guilty, the objection of want of notice may be taken. Under s. 100, of the former Building Act, no action could be commenced more than three months after the act complained of had been done. This period is now extended to six months. It was decided under the former statute, with reference to this provision, that where *A.* had begun to build a party-wall, partly on the soil of *B.*, more than three months before the action, but had not completed it till within that time, that *B.* was entitled to recover for such part of the trespass as was committed within the time limited; but that if nothing had been done within the three months, he must bring ejectment.—*Trotter* v. *Simpson*, 5 C. & P. 51, Parke.

Plea and evidence.

Verdict.

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Legal Proceedings. they are hereby required to find for the defendant; And that if a verdict be found for the defendant, or if the plaintiff in any such action or suit become non-suited, or discontinue or suffer a discontinuance of any such action or suit, or if judgment be given for the defendant therein, on demurrer or by default or otherwise, then the defendant shall be entitled to have judgment to recover full costs of suit, and to such remedy for recovering the same as any defendant shall have by law.

Costs.

The former act gave treble costs of suit.

109. Security for costs.

CIX. And further, for the prevention of vexatious litigation, Be it enacted, with regard to every action in respect of any matter or thing done or intended to be done in pursuance of this Act, so far as relates to the costs of such action, That if the defendant apply to the superior court at Westminster in which such action is pending, or to any judge of any of the said courts, then it shall be lawful for such court or any such judge to require the plaintiff to give such security as such court or judge shall think fit, for the payment of all costs, charges and expenses incurred or to be incurred in and about the said action, and which shall be or become payable by him on the taxation thereof by the proper officer.

110. Prosecutions for preventing neglect or evasion of this Act.

CX. And be it enacted, with regard to any penalty or forfeiture incurred by any default in complying with the provisions of this Act, so far as relates to proceedings for the recovery thereof, That, any time within three months after such penalty or forfeiture shall have been incurred, it shall be lawful for any surveyor appointed or confirmed by virtue of this Act, and all other persons, and they are hereby entitled to commence and prosecute proceedings for the recovery thereof, or for the recovery of the expenses of pulling down or altering of any building against any owner, occupier, builder, workman or other person, or for any default made in complying with the provisions of this Act: Provided always, That if such proceedings be taken by any person, except one of the surveyors, or except the official referees, then seven days' notice of the intention to commence such proceedings must be given at the office of

Notice of action.

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the surveyor of the district, and at the office of the registrar of the metropolitan buildings.

Miscellaneous.

111. Liability of owners and occupiers for expenses, &c. under this Act.

CXI. Provided always, and be it enacted, with regard to the owners of any building, fence, ground, land, or tenement, so far as relates to their liabilities in respect of expenses incurred in respect of such premises or otherwise, That in all cases, whatever may be the nature of the interest in any such premises of the person entitled to the immediate possession thereof, or of the occupier thereof, such person entitled to the immediate possession of such premises, or such occupier, shall in the first instance bear all costs and expenses by this Act imposed on the owner thereof, and shall perform all duties by this Act imposed on such owner; subject, nevertheless, to any right or claim which such person or such occupier may have to be repaid such costs and expenses, and to be indemnified in respect of such duties, according to the provisions of this Act, according to the nature and extent of the covenants or agreements under which such person or occupier may hold such premises, as fully and effectually as if such covenants or agreements were herein recited.

112. Notifications.

CXII. And be it enacted, with regard to notices by this Act required, so far as relates to the service thereof upon the owner or occupier of any building, fence, land, ground or tenement, That every such notice must be given as follows; that is to say,—

Married females.

If such owner be a married female, other than a *cestuique* trust in regard to such property, then such notice must be given to the husband of such married female; or,

Infants, idiots, or lunatics.

If such owner be an infant, idiot, or lunatic, or *cestuique* trust, then such notice must be given to the guardian, trustee or committee of such infant, idiot, or lunatic, or *cestuique* trust; or,

Owners unknown.

If such owner, husband, trustee, guardian or committee is not known or cannot be found, then such notice must be given to the occupier of such building, fence, land, ground or tenement to which it shall relate; or,

Buildings unoccupied.

If such building, fence, land, ground or tenement

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Miscellaneous.

be unoccupied, then such notice must be affixed to some conspicuous part of such building, fence, land, ground or tenement, at a height of not more than nine feet from the ground:

Immediate landlord.

And if the person in the occupation of any building, fence, land, ground or tenement, in respect of which notice is to be given, allege that he is a tenant from year to year, or for any less term, or a tenant at will, and not the owner thereof, within the intent and meaning of this Act, then such notice must be given to the immediate landlord of such occupier; and it shall be the duty of such occupier, and he is hereby required to inform any person by whom such notice shall be required to be given, or any other person applying on his behalf, of the name, place of residence, or place of business of such owner or landlord, or of his agent or other person by whom the rent of such building, fence, land, ground or tenement shall be received; and if such owner or landlord be not in receipt of the whole of the rents or profits of such building, fence, land, ground or tenement; and if any notice shall be served upon such owner or landlord, then, immediately upon the receipt thereof, it shall be his duty and he is hereby required to transmit to his immediate landlord or his agent, and also to any other person being part owner in such building, fence, land, ground or tenement, or in receipt of the rents or profits thereof under the same immediate landlord, or to the agent of such person, a copy of such notice, and so on in turn, it shall be the duty of every landlord, agent, or other person by whom such notice shall be received, to transmit it to any such landlord, agent or other person being part owner of any such building, fence, land, ground or tenement, to the intent that every person affected by the work or proceeding to which such notice

Part ownership.

Notice to one joint tenant, or tenant in common, would be held to be notice to all; and if one paid the whole expense, he might recover their proportionate shares from the others, (see also s. 50.) This was not the case under the old act, but a lengthy, tedious, and almost nugatory legal process was necessary, in order to fix their proportions of such expenses upon the several tenants in common.

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relates may have due notice thereof: Provided always, with regard to every such notice, so far as relates to the service thereof upon any such owner, That if it be served upon the immediate landlord of the occupier or upon his agent, by or on behalf of the person by whom it is hereby required to be served in the first instance, then, although it may not be served by such immediate landlord upon any other landlord or owner, such service is to be deemed to be sufficient service; But that nevertheless, if any owner suffer damage by the failure of any other person, being either the occupier or any person holding under such owner, to serve such notice, then such owner shall be entitled to recover the amount thereof against such person by whom such damage shall have been occasioned; And that every notice served under this clause, on any person, must contain a copy of the provisions thereof, so far as they require him to transmit the same to his immediate landlord, or the agent of such landlord.

Miscellaneous.

Service of Notices.

Damage arising from defective service.

Requisites of notice.

113. CXIII. And be it enacted, with regard to notices by this Act required, so far as relates to the mode of service thereof upon the occupier of any building or ground, That if such notice be intended for the occupier of any building or ground, then it must be given either personally or by leaving the same with some inmate at the premises, or it must be affixed as aforesaid.

Mode of service upon occupier.

114. CXIV. And be it enacted further, with regard to all such notices, so far as relates to the mode of service thereof upon owners by delivery, That every such notice (except such notice as may, according to the provision in that behalf, be sent by post,) must be given either personally or by leaving the same with some inmate at the usual place of abode of such party, or if that be not known, then at his last known place of abode; And that every such notice, when so given to such persons respectively as aforesaid, or left at the last known place of their respective abodes, or when so affixed as aforesaid, according to the cases hereinbefore mentioned, shall have the same effects and consequences as if given to the actual owner.

Mode of service upon owners, by delivery.

Effect of notice.

115. CXV. And be it enacted further, with regard to

Mode of ser-

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Miscellaneous.

vice upon owners, by transmission.

notices, so far as relates to the mode of service thereof by transmission, That if any owner, upon whom the same is required to be served, be not within the limits of this Act, or have not, within the limits of this Act, any agent acting in his behalf in the matter of the premises to which the notice refers, then it shall be lawful to give notice by post-letter, duly registered according to the practice for the time being adopted with regard to letters transmitted by post; but so that, nevertheless, such letter be posted in such time as will afford to the person addressed, after the receipt of such letter, the full period of notice required in the case.

116. Notices for surveyors, and official referees.

CXVI. And be it enacted, with regard to notices, so far as relates to the service thereof upon the surveyors and upon the official referees, That if the notice relate to the surveyor, then such notice must be served at the office of the surveyor; And that if the notice relate to the official referees or any of them, then such notice must be left at the office of the registrar of metropolitan buildings.

117. Consents by incapacitated persons.

CXVII. And be it enacted, with regard to consents by this Act required to be given by the owner or occupier of any building or ground, so far as relates to the making thereof on behalf of incapacitated persons, That if such owner or occupier be a married female, not being a *cestuique* trust in regard to the property to which such consent relates, then such consent must be given by the husband of such married female; or that if such owner or occupier be an infant, idiot, or lunatic, or *cestuique* trust, then such consent must be given by the guardian, trustee, or committee of such infant, idiot, or lunatic, or *cestuique* trust; or that if such owner or occupier, husband, trustee, guardian, or committee be not known or cannot be found, then, with a view to protect the interests of such parties, as well as to facilitate the purposes of this Act, it shall be lawful for the official referees, and they are hereby authorized by writing duly sealed by the registrar of metropolitan buildings, to give such consent as may be requisite, upon such terms and subject to such con-

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ditions as may seem fit to them, having regard alike to the nature and purpose of the subject-matter in respect of which such consent is to be given, and to the fair claims of the parties on whose behalf such consent is to be given. *Miscellaneous.*

CXVIII. And be it enacted, with regard to the following documents, so far as relates to the payment of stamp duty in respect thereof, That every certificate and every award required to be made or signed by the surveyor or the official referees, shall be and is hereby exempted from stamp duty. 118. Exemption from stamp-duty.

CXIX. And be it enacted, That this Act shall be deemed to be a public Act, and shall be judicially taken notice of as such by all judges, justices, and other persons whomsoever, without specially pleading the same. 119. Public Act.

CXX. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this present session of parliament. 120. Amendment of Act.

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SCHEDULES to which the foregoing Act refers.

SCHEDULE (A.)—(*see* Sec. 1.)

Containing a Description of the ACTS and PARTS of ACTS repealed by this Act.

Date of Act.	Title of Act.	Extent of Repeal.
1st.—14 Geo. III. c. 78. (1774.)	An Act for the further and better regulation of buildings and party-walls, and for the more effectually preventing mischiefs by fire within the cities of London and Westminster, and the liberties thereof, and other the parishes, precincts and places within the weekly bills of mortality, the parishes of Saint Mary-le-bon, Paddington, Saint Pancras, and Saint Luke at Chelsea, in the county of Middlesex; and for indemnifying, under certain conditions, builders and other persons against the penalties to which they are or may be liable for erecting buildings within the limits aforesaid, contrary to law.	Wholly; except so far as any such Act may repeal any other Act either wholly or partly; and except as to offences committed, penalties incurred, and fees payable, and any proceedings taken or commenced, or which might be taken or commenced, under the said Act, on or before the said first day of January one thousand eight hundred and forty-five; and except the whole of the several sections of the said Act which relate to the keeping of fire-engines and ladders and fire-cocks (ss. 74, 75), and to the fees or rewards to turncocks and engine-keepers (s. 76), and to the payment of such rewards or fees (ss. 77, 78), and to providing of engines by parishes (ss. 80, 81), and to the payment of the expenses and rewards out of the poor-rates (s. 81), and to the exemption of watermen and others from impressment, or the liability to serve either as mariners or as soldiers (s. 82), and to the application of insurance-money on houses burnt (s. 83), and to the punishment of servants for carelessly firing a house (s. 84), and

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SCHEDULE (A)—*continued.*

Date of Act.	Title of Act.	Extent of Repeal.
		to the attendance of peace and parish officers at fires (s. 85), and to legal proceedings in respect of accidental fires (s. 86), and any other part of the said Act, so far as it is necessary for giving full effect to the respective purposes of such several unrepealed sections.
2d.—50 Geo. III. c. 75. (1810.)	An Act to amend an Act of the fourteenth year of his present Majesty for the better regulation of buildings and party-walls; and for the more effectually preventing mischiefs by fire within the cities of London and Westminster, by permitting John's Patent Tessera to be used in covering of houses and buildings within the places therein mentioned.	Wholly.
3d.—3 & 4 Vict. c. 85. (1840.)	An Act for the regulation of chimney sweepers and chimneys.	So much thereof as relates to the construction and regulation of chimneys and flues within the limits of this Act.

SCHEDULE (B.)—(*see* Sec. 5 & 7.)

Part I.

List of Buildings, of whatever Class, placed under Special Supervision.

Bridges, embankment walls, retaining walls, and wharf or quay walls:

And her Majesty's royal palaces, and any building being in the possession of her Majesty, her heirs and successors, or employed for her Majesty's use or service:

And any common gaols, prisons, houses of correction, and places of confinement under the inspection of the inspectors of pri-

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Schedules.

SCHEDULE (B.)—PART I.—(*continued.*)

sons, and Bethlem hospital, and the house of occupations adjoining:

And the Mansion-house, Guildhall and Royal Exchange of the City of London:

39 & 40 Geo. III. c. lxxxix. And the offices and buildings of the Governor and Company of the Bank of England already erected, and which now form the edifice called "The Bank of England," and any offices and buildings hereafter to be erected for the use of the said governor and company, either on the site of or in addition to and in connexion with the said edifice:

And the buildings of the British Museum already erected or to be erected for the like purposes:

9 Geo. IV. c. cxiii. And the erections and buildings authorized by an act passed in the ninth year of the reign of his late Majesty King George the Fourth, for the purposes of a market in Covent Garden:

And the warehouses of or belonging to the St. Katharine Dock Company, commonly called the New Street and Cutler Street warehouses, and the Haydon Square warehouses, purchased by the said company from the East India Company:

And all other buildings exempted by any act of parliament from the operation of the act passed in the fourteenth year of his late Majesty King George the Third, and by this Act repealed, except buildings included in the second part of this schedule.

PART II.

LIST of BUILDINGS of whatever Class exempted from Supervision.

6 Geo. IV. c. cv. And the warehouses of or belonging to the Saint Katharine Dock Company, and situate in the parish of Saint Botolph-without-Aldgate, and in the precinct of Saint Katharine, near the Tower of London, in the county of Middlesex:

9 Geo. IV. c. cxvi. s. 99. And the warehouses and buildings of or belonging to the London Dock Company, comprehended within the wall of the said company, as set forth in an act passed in the ninth year of the reign of his late Majesty King George the Fourth:

1 & 2 Vict. c. ix. And the several warehouses and buildings of or belonging to the East and West India Dock Company, established by an act made in the first year of the reign of her present Majesty:

3 & 4 Will. IV. c. xxxvi. and 5 & 6 Will. IV. c. lvi. s. 126. And the buildings erected or to be erected by the London and Birmingham Railway Company, established and incorporated by an act passed in the third year of the reign of his late Majesty King William the Fourth, within and in connexion with the works of their railway, by virtue of the several acts relating thereto:

And the buildings and structures belonging to any other dock or railway authorized to be executed by any act of parliament.

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SCHEDULE (C.)—Part I.—(*see* Sec. 5.)

Rules for determining the Classes and Rates to which Buildings are to be deemed to belong for the purposes of this Act, and the Thicknesses of the Walls of Buildings of such Rates.

Classes of Buildings.

For the purposes of this Act, all buildings of whatever kind, subject to the provisions thereof, are to be deemed to belong to one or other of the following three classes; that is to say,

First Class.

If a building be built originally as a dwelling-house, or be occupied, or intended to be occupied as such,—then it is to be deemed to belong to the first or dwelling-house class.

Second Class.

If a building be built originally as a warehouse, storehouse, granary, brewery, distillery, manufactory, workshop or stable, or be occupied or intended to be occupied as such, or for a similar purpose,—then it is to be deemed to belong to the second or warehouse class.

Third Class.

If a building be built originally as a church, chapel or other place of public worship, college, hall, hospital, theatre, public concert-room, public ball-room, public lecture-room, public exhibition-room, or occupied or intended to be occupied as such, or for a similar purpose, or otherwise used, or intended to be used, either temporarily or permanently, for the assemblage of persons in large numbers, whether for public worship, business, instruction, debate, diversion or resort,—then it is to be deemed to belong to the third or public-building class.

Alteration of Class.

And if any room, whether constructed within any other building or not, and whether included in the aforesaid classes or not, be used at any time for the public or general congregation of persons,—then the building containing such room is to be deemed a building of the third or public-building class.

Or if a building originally built, or subsequently altered, so as to bring it within any one class, be subsequently converted into or used as a building of another class,—then it is to be deemed to belong to such other class; and, as to it, all the conditions prescribed with regard to buildings of the same rate of such other class must be fulfilled, as if it had been originally built of

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Schedules.

SCHEDULE (C.)—PART I.—*continued.*

such class; subject nevertheless to such modifications as shall be sanctioned by the official referees on a special supervision thereof.

Or if a building be used partly as a dwelling-house and partly for any purpose which would bring it within the second or warehouse class, then it is to be deemed to belong to the said second or warehouse class; and as to it, all the conditions prescribed with regard to buildings of the same rate of such class must be fulfilled, as if it had been originally built of such class, subject nevertheless to such modifications as shall be sanctioned by the official referees on a special supervision thereof.

Rates of Buildings.

And the buildings included in the said classes are to be deemed to belong to the rates of those classes, according to the conditions of height, area and number of stories, set forth in the following tables; which conditions are to be determined according to the following rules:—

Rule for ascertaining Height.

The height of every building is to be ascertained by measuring from the surface of the lowest floor of the building, up to the underside of the ceiling of the topmost story at the highest part thereof, whether such story be within the roof or not.

And if there be no ceiling made or intended to be made to the topmost story,—then by measuring from the surface of such lowest floor of the building up to the underside of any tie-beam, collar-beam, or other substitute for a tie-beam to or within the roof of the building, and to the highest part of such roof; and the level of the under-side of such tie-beam, or such substitute for a tie-beam, is in such case to be taken to mean the ceiling of the topmost story.

And if there be no tie-beam, collar-beam, or other substitute for a tie-beam, to or within the roof of any building,—then up to a level three feet below the level of the under-side of the ridge-piece or substitute for a ridge-piece to the roof of such building.

Rule for ascertaining Area.

And the area of every building is to be determined by the number of squares contained in the surface of any floor which shall contain the greatest number of squares at or above the principal entrance to such building; including in such surface the area of all the external walls and such portions of the party-walls as belong to such building, but excluding from such surface the area of any attached building or office, area, balcony, or open portico.

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SCHEDULE (C.)—PART I.—*continued.*

Rule for ascertaining the Capacity of any Building of the Second Class.

And the capacity or cubical contents of any such building is to be ascertained by measuring according to the rule for ascertaining area, and from the surface of the lowest floor up to the under surface of the roof-covering of such building.

Rule for ascertaining Number of Stories.

And the stories of every building are to be counted from the foundation, upwards.

And if the space in height between the top of the footings and the level of the lowest floor do not exceed five feet,—then the story nearest the foundation is to be considered the lowest or first story; but if such space exceed five feet,—then such space is to be considered to contain the lowest or first story; and in that case nine inches above the top of the footing is to be considered the level of the lowest floor.

Rule for ascertaining Thickness of Walls.

And the thickness or width of every wall, and of the footing thereof, is to be ascertained by measuring only the thickness or width of which such walls or footings shall have been originally built.

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SCHEDULE (C.)—PART II.—(*see* Sec. 5.)

CONDITIONS for determining the RATES to which BUILDINGS of the FIRST or DWELLING-HOUSE CLASS are to be deemed to belong, and the THICKNESS of the EXTERNAL WALLS and of the PARTY-WALLS thereof.

In reference to HEIGHT.	In reference to AREA.	In reference to STORIES.	RATE of BUILDING.	REQUISITE THICKNESS of EXTERNAL WALLS of each Rate of the FIRST CLASS.	REQUISITE THICKNESS of PARTY-WALLS of each Rate of the FIRST CLASS.
1. If the building be in height more than 70 feet, and not more than 85 feet,	- - If the building cover more than 10 squares, and not more than 14 squares,	- - If the building contain SEVEN stories,	- - It is to be of the FIRST RATE of this class,	- - And the thickness of the external walls must be, at the least, 21½ inches from the top of the footing up to the under-side of the floor next but three below the topmost floor; and, at the least, 17½ inches from the under-side of the floor next but three below the topmost floor, up to the under-side of the floor next below the topmost floor; and, at the least, 13 inches from the under-side of the floor next below the topmost floor up to the top of the wall.	- - And the thickness of the party-walls must be, at the least, 21½ inches from the top of the footing up to the under-side of the floor next but three below the topmost floor; and, at the least, 17½ inches from the under-side of the floor next but three below the topmost floor up to the under-side of the floor next below the topmost floor; and, at the least, 13 inches from the under-side of the floor next below the topmost floor, up to the top of the wall.
But if it be in height more than 85 feet,	- - Or if it cover more than 14 squares,	- - Or if it contain more than SEVEN stories,	- - It is to be an EXTRA FIRST RATE of this class.	- - And the thickness of the external walls must be, at the least, 21½ inches from the top of the footing up to the under-side of the floor next but two below the topmost floor; and, at the least, 17½ inches from the under-side of the floor next but two below the topmost floor up to the top of the wall.	- - And the thickness of the party-walls must be, at the least, 21½ inches from the top of the footing up to the under-side of the floor next but three below the topmost floor; and, at the least, 17½ inches from the under-side of the floor next but three below the topmost floor up to the under-side of the topmost floor; and, at the least, 13 inches from the under-side of the topmost floor up to the top of the wall.

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SCHEDULE (C.)—Part. II.—(*continued.*)

In reference to Height.	In reference to Area.	In reference to Stories.	Rate of Building.	REQUISITE THICKNESS of EXTERNAL WALLS of each Rate of the First Class.	REQUISITE THICKNESS of PARTY-WALLS of each Rate of the First Class.
2. If more than 52 feet, and not more than 70 feet,	- - Or if it cover more than 6 squares and not more than 10 squares,	- - Or if it contain six stories,	- - It is to be of the second rate of this class.	- - And the thickness of the external walls must be, at the least, 17½ inches from the top of the footing up to the under-side of the floor next but one below the topmost floor; and, at the least, 13 inches from the under-side of the floor next but one below the topmost floor up to the top of the wall.	- - And the thickness of the party-walls must be, at the least, 17½ inches from the top of the footing up to the under-side of the floor next but one below the topmost floor; and, at the least, 13 inches from the under-side of the floor next but one below the topmost floor, up to the top of the wall.
3. If more than 88 feet, and not more than 52 feet,	- - Or if it cover more than 4 squares, and not more than 6 squares,	- - Or if it contain five stories,	- - It is to be of the third rate of this class.	- - And the thickness of the external walls must be, at the least, 17½ inches from the top of the footing up to the under-side of the floor next but two below the topmost floor; and, at the least 13 inches from the under-side of the floor next but two below the topmost floor up to the top of the wall.	- - And the thickness of the party-walls must be, at the least, 17½ inches from the top of the footing up to the under-side of the floor next but two below the topmost floor; and, at the least, 13 inches from the under-side of the floor next but two below the topmost floor up to the under-side of the topmost floor; and, at the least, 8½ inches from the under-side of the topmost floor up to the top of the wall.
4. If not more than 88 feet,	- - Or if it do not cover more than 4 squares,	- - Or if it do not contain more than four stories,	- - It is to be of the fourth rate of this class.	- - And the thickness of the external walls must be, at the least, 13 inches from the top of the footing up to the under-side of the floor next below the topmost floor; and at the least 8½ inches from the under-side of the floor next below the topmost floor up to the top of the wall.	- - And the thickness of the party-walls, must be, at the least, 13 inches from the top of the footing up to the under side of the floor next but one below the topmost floor; and, at the least 8½ inches from the under-side of the floor next but one below the topmost floor up to the top of the wall.

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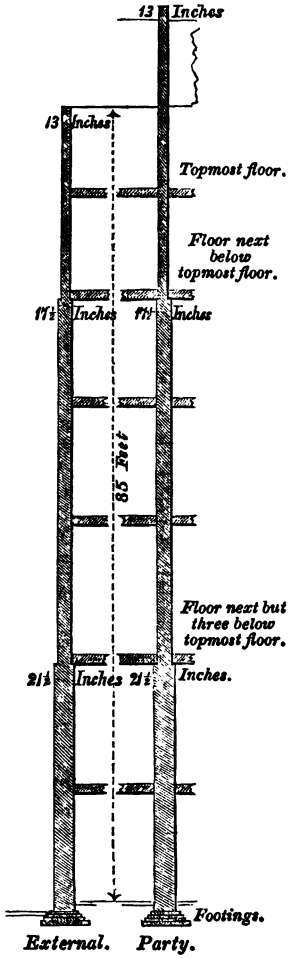
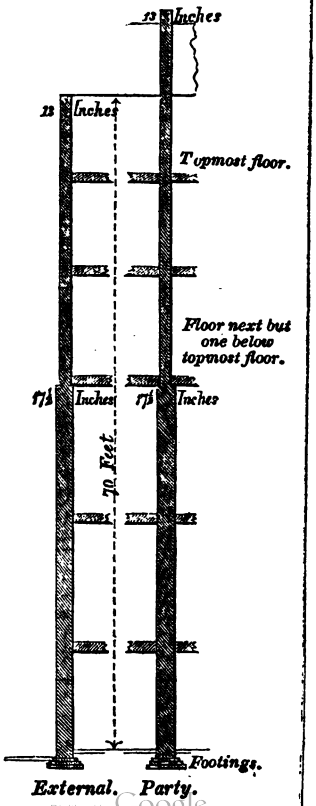
TRANSVERSE SECTIONS OF WALLS OF THE FIRST, OR DWELLING-HOUSE CLASS, according to the Descriptions of their Thicknesses in SCHEDULE (C.)—PART II.

FIRST RATE.



SECOND RATE.



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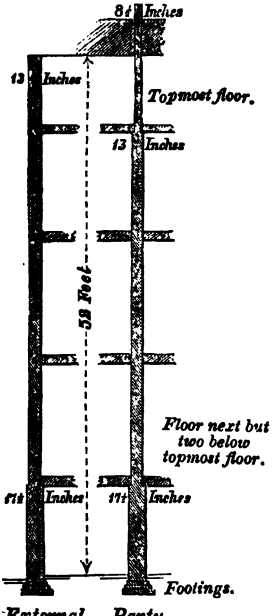
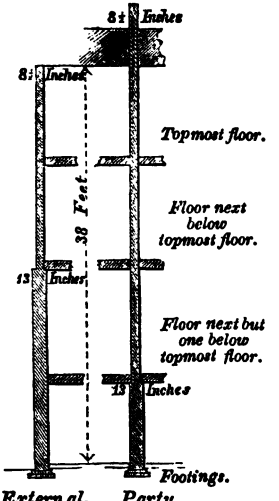
TRANSVERSE SECTIONS OF WALLS OF THE FIRST, OR DWELLING-HOUSE CLASS, according to the Descriptions of their Thicknesses in SCHEDULE (C.)—PART II.

THIRD RATE.



FOURTH RATE.



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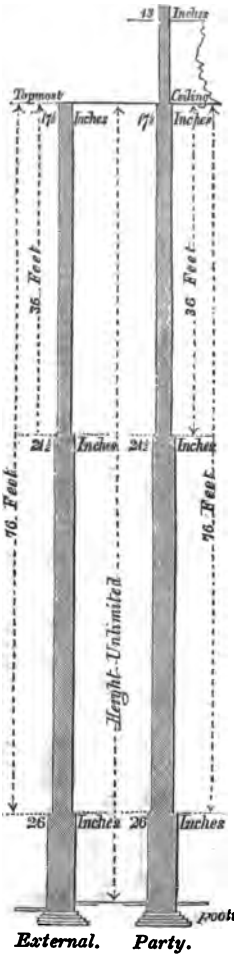
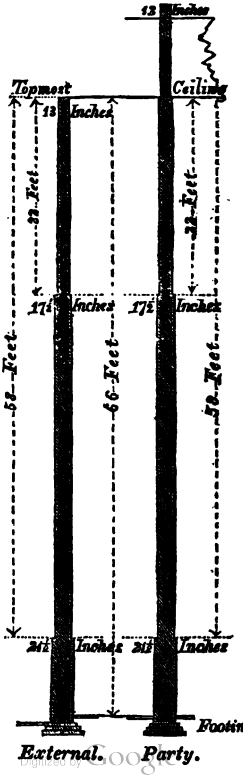
TRANSVERSE SECTIONS OF WALLS OF THE SECOND, OR WAREHOUSE CLASS, according to the Description of their Thicknesses in SCHEDULE (C.)—PART III.

FIRST RATE.



SECOND RATE.



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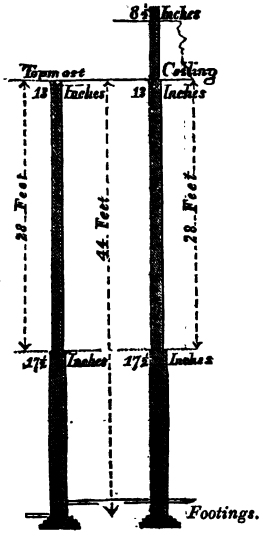
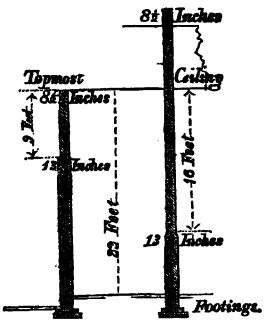
TRANSVERSE SECTIONS OF WALLS OF THE SECOND, OR WAREHOUSE CLASS, according to the Descriptions of their Thicknesses in SCHEDULE (C.)—PART III.

THIRD RATE.



FOURTH RATE.



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SCHEDULE (C.)—PART III.—(*see* Sec. 5.)

CONDITIONS for determining the RATES to which BUILDINGS of the SECOND or WAREHOUSE CLASS are to be deemed to belong, and the THICKNESS of the EXTERNAL WALLS and of the PARTY-WALLS thereof.

In reference to HEIGHT.	RATE of BUILDING.	REQUISITE THICKNESS of the EXTERNAL WALLS of each Rate of the SECOND CLASS.	REQUISITE THICKNESS of the PARTY-WALL of each Rate of the SECOND CLASS.
1. If the building be in height more than 66 feet,	- - It is to be of the FIRST RATE of this Class,	- - And the thickness of the external walls must be, at the least, 26 inches from the top of the footing up to the level of 76 feet below the topmost ceiling; and, at the least, 21½ inches from the level of 76 feet below the topmost ceiling up to the level of 36 feet below the topmost ceiling; and, at the least, 17½ inches from the level of 36 feet below the topmost ceiling up to the top of the wall.	- - And the thickness of the party-walls must be, at the least, 26 inches from the top of the footing to the level of 76 feet below the topmost ceiling; and, at the least, 21½ inches from the level of 76 feet below the topmost ceiling up to the level of 36 feet below the topmost ceiling; and, at the least, 17½ inches from the level of 36 feet below the topmost ceiling up to the level of the topmost ceiling; and, at the least, 13 inches from the level of the topmost ceiling up to the top of the wall.
2. If more than 44 feet, and not more than 66 feet,	- - It is to be the SECOND RATE of this Class,	- - And the thickness of the external walls must be, at the least, 21½ inches from the top of the footing up to the level of 58 feet below the topmost ceiling; and, at the least, 17½ inches from the level of 58 feet below the topmost ceiling up to the level of 22 feet below the topmost ceiling; and, at the least, 13 inches from the level of 22 feet below the topmost ceiling up to the top of the wall.	- - And the thickness of the party-walls must be, at the least, 21½ inches from the top of the footing up to the level of 58 feet below the topmost ceiling; and, at the least, 17½ inches from the level of 58 feet below the topmost ceiling up to the level of 22 feet below the topmost ceiling; and, at the least, 13 inches from the level of 22 feet below the topmost ceiling up to the top of the wall.

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SCHEDULE (C.)—PART III.—(*continued.*)

In reference to HEIGHT.	RATE of BUILDING.	REQUISITE THICKNESS of the EXTERNAL WALLS of each RATE of the SECOND CLASS.	REQUISITE THICKNESS of the PARTY-WALL of each Rate of the SECOND CLASS.
3. If more than 22 feet, and not more than 44 feet,	- - It is to be of the THIRD RATE of this Class,	- - And the thickness of the external walls must be, at the least, 17½ inches from the top of the footing up to the level of 28 feet below the topmost ceiling; and, at the least, 13 inches from the level of 28 feet below the topmost ceiling up to the top of the wall.	- - And the thickness of the party-walls must be, at the least, 17½ inches from the top of the footing up to the level of 28 feet below the topmost ceiling; and, at the least, 13 inches from the level of 28 feet below the topmost ceiling up to the level of the topmost ceiling; and, at the least, 8½ inches from the level of the topmost ceiling up to the top of the wall.
4. If not more than 22 feet,	- - It is to be of the FOURTH RATE of this Class,	- - And the thickness of the external walls must be, at the least, 13 inches from the top of the footing up to the level of 9 feet below the topmost ceiling; and, at the least, 8½ inches from the level of 9 feet below the topmost ceiling up to the top of the wall.	- - And the thickness of the party-walls must be, at the least, 13 inches from the top of the footing up to the level of 16 feet below the topmost ceiling; and, at the least, 8½ inches from the level of 16 feet below the topmost ceiling up to the top of the wall.

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Schedules.

SCHEDULE (C.)—PART IV.

RULES concerning BUILDINGS of the SECOND or WAREHOUSE CLASS.

Warehouses, &c.

With regard to any building of the second class, hereafter built or rebuilt, in reference to the capacity or contents thereof within the same enclosing-walls,—

If such building contain more than 200,000 cubic feet, then such building must be divided by party-walls, so as that there be not in any one part of such building more than 200,000 cubic feet without party-walls.

Openings in Party-walls.

And with regard to buildings of the second class, in reference to openings through party-walls,—

Such openings must not be made wider than six feet, nor higher than eight feet, unless in each case, and upon special evidence of necessity for convenience or otherwise, the official referees shall previously authorize larger openings.

And the floor, and the jambs, and the head of every such opening must be composed of brick or stone or iron work throughout the whole thickness of the wall.

And every such opening must have a strong wrought-iron door on each side of the party-wall, fitted and hung to such opening without wood work of any kind; and such doors must be not less than one-fourth of an inch thick in the panels thereof;

And each of such doors must be distant from the other not less than the full thickness of the party-wall.

Roofs.

And with regard to the roofs of buildings of the second class,— In order to prevent the formation of curbed roofs to such buildings, the plane of the surface of the roof of every such building must not incline from the external or party-walls upwards, at a greater angle than forty degrees with the horizon.

SCHEDULE (C.)—PART V.

REQUISITES for determining the Rate to which any Building of the THIRD or PUBLIC BUILDING CLASS is to be deemed to belong.

If any building of the third or public-building class correspond in

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SCHEDULE (C.)—Part V.—*continued.* *Schedules.*

form or structure or disposition with a dwelling-house,—then the rate thereof is to be determined by the same rules as the rates of the first or dwelling-house class; and the thicknesses of the external and party-walls, and the width of the footings thereof, are to be at the least four inches more than is hereby required for the external and party-walls, and the footings thereof, of buildings of the same rate of the first or dwelling-house class, unless the official referees, on special supervision in each case, shall otherwise appoint.

But if it correspond in form or structure or disposition with a warehouse, or any building of the second class,—then the rate thereof is to be determined by the same rules as the rates of the second or warehouse class; and the thickness of the external and party-walls, and the width of the footings thereof, are to be at the least four inches more than is hereby required for the external and party-walls, and the footings thereof, of buildings of the same rate of the second or warehouse class, unless the official referees, on special supervision in each case, shall otherwise appoint.

But if it do not correspond in form and structure, or in either, with buildings of the first or second classes, or any of them, then such building is to be subject, as to its walls or other construction, to the special approval of the official referees.

SCHEDULE (C.)—Part VI.

Rule concerning Fire-proof Accesses and Stairs to Buildings of the First and Third Classes.

With regard to buildings of the first class, whereof the internal stairs are of stone or other incombustible substance,—such stairs must be set in, or be fixed to, and be wholly upborne by, fire-proof constructions, and must be connected internally by landings, the floors of which are fire-proof, and wholly upborne and supported by fire-proof constructions; and must be connected with the exterior entrance by passages, the floors of which are fire-proof, and wholly upborne and supported by fire-proof constructions.

And with regard to buildings of the third class,—the floors of the halls, vestibules, lobbies, corridors, passages, and the stairs and landings, and all other ways of ingress and egress within the building, to and from all rooms or apartments used for public congregation, and to and from all galleries being part of,

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Schedules.

or being connected with, any such room or apartment, must be wholly supported, constructed, formed, made and finished fire-proof.

SCHEDULE (C.)—PART VII.

RULES concerning attached and detached and insulated BUILDINGS, as to the RATES and WALLS thereof.

Attached Buildings and Offices.

With regard to buildings or offices now built or hereafter to be built (except greenhouses, vineries, aviaries, or such like buildings),—and that, whether such buildings or offices be attached to, or detached from, the buildings to which they belong,—

Every such building is to be deemed, in respect of the walls thereof, and all other requisites, as a building of the rate to which it would belong if it had been built separately.

Insulated Buildings.

And with regard to buildings of the first or dwelling-house class, and of the second or warehouse class, which shall be insulated, so far as relates to the distance thereof from a public street or way,—

Every such building must be distant from any public street or alley one-third of the height thereof at the least; and if the building do not exceed 24 feet in height,—then it must be so distant at the least eight feet.

And with regard to such building, so far as relates to the distance thereof from any other building, or from ground not in the same possession or occupation therewith, or connected therewith only by a fence or fence-wall,—it must be distant from such other building or such other ground at the least 30 feet.

And if such building be so distant from a public street or alley, and from any other building, or from ground not in the same possession or occupation therewith,—then such building is not to be liable, in respect of the dimensions and materials thereof, to the rules and directions of this Act.

Insulated Buildings afterwards divided.

Provided always, that if any such building be hereafter divided into two or more distinct buildings, and the several parts of such buildings so divided be not at the aforesaid distance from each other, and from other buildings and ground,—then such

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several parts must be separated from each other by such party-walls, as are herein prescribed for the rates to which such several parts, if adjoining, would belong.

And if such requisites be not observed,—then such several parts of such buildings in respect of which they are not so observed, shall be deemed a public nuisance, and as such be taken down, according to the provisions of this Act in that behalf.

Toll-houses, &c.

And with regard to certain buildings which shall be built for the purposes of trade or the collection of toll,—

If such buildings be situate fifteen feet at the least from any other building, and do not cover an area of more than one square and one half, and the height thereof do not exceed twelve feet from the ground to the highest point of the roof,—then every such building may be enclosed with any materials whatsoever; but the roof thereof must be covered as herein directed with regard to roofs, and the chimney and flue (if any) must be built as herein directed with regard to chimneys and flues.

SCHEDULE (D.)

Part I.—Rules concerning Walls of whatever Kind.

Foundations.

With regard to the Foundations of Walls:—

Every external wall and every party-wall, and every party-fence-wall, must be built upon a constructed footing, based upon solid ground, or upon other sufficient foundation.

Footings.

With regard to footings of walls, in reference to the materials thereof, to the width thereof, to the height thereof above the foundation, and to the depth below the surface,—

Materials.

1. In reference to the materials thereof:—

Every footing must be built either of sound bricks, or of stone, or of such bricks and stone together, laid in and with mortar or cement in such manner as to produce solid work.

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SCHEDULE (D.)—*continued.*

Width.

3. In reference to the width thereof:—

The bottom of the footing of every external wall and party-wall of the first rate must be at the least 17½ inches wider than the wall standing thereon; and the bottom of every footing of every external wall and party-wall of the second and third rates must be at the least 13 inches wider than the wall standing thereon; and the bottom of the footing of every external wall and party-wall of the fourth rate and of every party-fence-wall, must be at the least 8½ inches wider than the wall standing thereon.

The top of the footing of every party-fence-wall and of every external wall and party-wall must be, at the least, four inches wider than the wall standing thereon.

Height.

4. In reference to the height above the foundation:—

The footing of every external wall and party-wall of the first rate must be at the least eleven inches high above the foundation.

The footing of every external wall and party-wall of the second and third rates must be at the least eight inches high above the foundation.

The footing of every party-fence-wall and of every external wall and party-wall of the fourth rate, must be at the least five inches high above the foundation.

Depth below Ground.

5. In reference to the depth thereof below the surface of the lowest ground or area adjoining:—

The top of the footing of every party-fence-wall and of every external wall and party-wall must be at the least three inches below such surface.

Depth below lowest Floor.

6. In reference to the depth thereof below the surface of the lowest floor adjoining, or intended to adjoin, thereto:—

The top of the footing of every external wall and party-wall must be at the least nine inches below such surface; and in any building of the first class the surface of the earth, or of any paving on the outside, (except the pavement of any public way,) must not at any time be raised to within six inches of the surface of the lowest or first floor of such building.

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SCHEDULE (D.)—*continued.* *Schedules.*

Thicknesses of Enclosing Walls to Stories of Buildings of whatever Rate.

With regard to the enclosing walls to stories of buildings of the first and second classes,—

Each of the enclosing walls of any such story, throughout the whole height thereof, from the top of the footing up to the top of such story, and with all the sets-off in addition required for such wall, to whatever rate or whichever class it may belong, and throughout at the least one-third of the whole length of such wall, in piers properly distributed, must be of the following dimensions, (unless cross or return-walls, coursed and bonded with the enclosing walls, shall, in the opinion of the official referees, upon special application to them in each particular case, give sufficient strength, with less thickness in such enclosing walls); that is to say,—

As to first class buildings; if the story be in height more than 11 feet,—then the thickness of its enclosing walls must be at the least 13 inches.

Or if the story be in height more than 15 feet,—then the thickness of its enclosing walls must be at the least 17½ inches.

As to second class buildings; if the story be in height more than 9 feet,—then the thickness of its enclosing walls must be at the least 13 inches.

Or if the story be in height more than 12 feet, then the thickness of its enclosing walls must be at the least 17½ inches.

Or if the story be in height more than 15 feet,—then the thickness of its enclosing walls must be at the least 21½ inches.

Or if the story be in height more than 18 feet,—then the thickness of its enclosing walls must be at the least 26 inches.

Nevertheless as to any external wall of any building of the first class in which there are no apertures or recesses. If there be another external wall and a cross wall of not less than 8½ inches thick, coursing and bonding with such external wall, or if two such cross walls occur within a length of 24 feet of such wall, then such external wall may be built of the thickness of 13 inches, of any height not exceeding 18 feet, within any story, although the rate of the wall may require a greater thickness; but always upon condition that the substructure of such wall is 4 inches thicker at the least than such superstructure, and vertically under it.

And also if any such wall be abutted by cross or return walls within a length of 12 feet, and if not more than one aperture

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Schedules.

SCHEDULE (D.)—PART I.—*continued.*

or recess occur within such length of 12 feet, and not more than one-half the quantity in length be taken out of such compartment of a wall by any such aperture or recess, then such external wall may be built of any thickness not less than 13 inches, notwithstanding the rate of such wall may require a greater thickness.

SCHEDULE (D.)

PART II.—EXTERNAL WALLS.

Construction and Materials.

And with regard to the component materials of external walls to buildings of whatever class,—

Every such wall must be built of sound bricks or of stone, or of such bricks and stone together, laid in and with mortar or cement in such manner as to produce solid work; and every such wall must be carried up of its full thickness to the underside of the plate under the roof.

Nevertheless, in such walls, besides all requisite openings for doors and windows, recesses may be formed; so that the back thereof be of the thickness of eight inches and a half at the least; and so that the stability and sufficiency of the wall be not injuriously affected by making such recesses.

And with regard to other substances than the component materials of external walls,—

There may be such wood and iron as shall be necessary.

And every plate, lintel, bond, corbel, being of wood, and every wood-brick laid into any external wall, and all ends of joists, of girders, and of the heads and sills of partitions running into any external wall, must be fixed at a distance from the external face of the wall of four inches at the least.

And the frames of doors and windows must be fixed in reveals at a distance from the external face of the wall of four inches at the least.

And shop-fronts must be fixed in such manner as is herein specially directed.

And the tiers of door-cases to warehouses must be fixed in the openings left in such walls, at a distance from the external face of the wall of two inches at the least.

But no timber must be laid into any external wall in such manner, or of such length, as to render the part of the wall above it wholly, or in great part, dependent upon the wood for support,

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or so that any such wood might not be withdrawn without endangering the safety of the superincumbent structure, except in the case of brestsummers.

Height and Thickness of Parapets.

And with regard to external walls, in reference to the height and thickness of any parapet thereon,—

If an external wall adjoin a gutter,—then such external wall must be carried up, and remain one foot at the least above the highest part of such gutter.

And the thickness of an external wall, so carried up above the level of the underside of the gutter-plate, and forming a parapet, must be at the least,—

In every such wall of the extra first rate of the first class, and in every such wall of the first rate of the second class, 13 inches thick; and—

In every other external wall of whatever rate or whichever class, 8½ inches thick.

Brestsummers.

With regard to every brestsummer fixed to carry any front wall of a building,—

If such brestsummer have a bearing at one end upon a party-wall,—then it must be laid upon a template or corbel of stone or iron, which template or corbel must be tailed through such wall at least two-thirds of the thickness thereof; and the end of such brestsummer must not be fixed into, and must not have its bearing solely upon such party-wall, but must be supported by a sufficient pier built of brick or stone, or by an iron column, or iron or timber story-post fixed on a solid foundation.

And if any such brestsummer have its bearing at each end upon a party-wall,—then it must be supported by at least two sufficient piers built of brick or stone, or by iron columns or by iron or timber story-posts fixed on solid foundations, and standing within and clear of the party-walls.

Or any such brestsummer may bear upon constructed returns in the direction of the length of the brestsummer of four inches at the least, coursed and bonded with the substance of the party-wall or party-walls; and such constructed returns must be increased one inch, at the least, for every six feet in length that the brestsummer may be otherwise unsupported.

And if the height of the under-side of any brestsummer, laid from party-wall to party-wall to carry any external wall, exceed 15 feet from the surface of the public foot-pavement in front of the building,—then there must be constructed returns in the direction of the length of the brestsummer from the

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Schedules.

SCHEDULE (D.)—PART II.—*continued.*

inside of each party-wall of 8½ inches at the least, and at the least of the full thickness of such brestsummer; and every such return must be increased one inch at the least for every foot or part of a foot the brestsummer may be in height from the surface of the public foot-pavement more than 16 feet, whether the brestsummer be otherwise supported or not.

Materials to be used in Repairs.

And with regard to old external walls or other external inclosures of any building already built, in reference to materials to be used in the repair thereof,—

If any such wall or inclosure be not built of the materials required by this Act for external walls or other external inclosures hereafter to be built,—then every part of such wall or other external inclosure, (except the inclosure of roofs, and the flats, gutters, dormers, turrets, lantern-lights and other erections thereon,) may be at all times thereafter repaired with materials of the same sort as those of which such external wall or inclosure has been already built.

Materials to be used in Rebuilding.

But if any such external wall or inclosure be at any time hereafter taken down or otherwise demolished for the height of one story, or for a space equal to one-fourth of the whole surface of such external wall,—then every part thereof, not built in the manner and of the several materials by this Act directed for external walls, must be taken down; and the same must be rebuilt in such manner, and of such materials, and in all respects as by this Act directed for external walls hereafter to be built, according to the class and rate of the building to which such external wall or inclosure shall belong.

External Wall used as a Party-wall.

And with regard to external walls to be used as party-walls to any building adjoining thereto, (except an attached building or office as is hereinbefore described),—

If the external wall of any building have not such footings, or be not of such heights and thicknesses, or be not built in such manner and of such materials as are herein directed for party-walls of buildings of the highest rate to which such wall shall adjoin,—then such external wall must not be used as a party-wall for any such building; but there must be a distinct external wall built as herein described for external walls, of the rate to which it shall belong.

But if such external wall to any building already built be at the

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SCHEDULE (D.)—Part II.—*continued.* *Schedules.*

least 13 inches in thickness, in every part, and be of sound and proper materials and in good condition,—then such wall may be used as a party wall; but if the house of which such wall forms a part be rebuilt within five years from the time at which the wall shall have been so first used as a party-wall,—then such wall must become subject to the provisions of this Act in respect of party-walls, according to the class and rate to which the said wall did first belong.

SCHEDULE (D.)

Part III.—Party-walls.

Division of Buildings.

And with regard to walls used to divide single buildings into two or more,—

If it be intended to divide any building into two or more distinct parts,—then every wall for that purpose must be built as a party-wall, in the manner and of the materials, and of the several heights and thicknesses for party-walls of the highest rate of building to which such party-wall shall belong or adjoin, as prescribed in reference to the thicknesses of party-walls in Schedule (C.)

And if any building already built or which shall be hereafter built, be converted, used or occupied as two or more separate buildings, each having a separate entrance and staircase, then every such building shall be deemed to be two or more separate houses, and such separate houses must be divided from each other by a party-wall or party arch or arches, built in the manner and of the materials required for party-walls, or for party-arches, for the class and rate to which the largest of the buildings so divided shall belong.

Site of Walls.

With regard to party-walls, in reference to the site thereof,—

If the buildings be of equal rate,—then such party-wall must be built on the line of junction of such buildings, one-half on the ground of the owner of one of such buildings, and one-half on the ground of the owner of the other of such buildings.

If such buildings be of different rates,—then such wall must be built on the line of junction thereof, as follows; that is to say, one-half of the thickness of the wall required for the building of the

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Schedules. SCHEDULE (D.)—PART III.—*continued.*

lower rate, on the ground of each of the adjoining owners; and the whole of the additional thickness of the wall required for the building of the higher rate, on the ground of the owner of such building of the higher rate.

And if such building of the lower rate be thereafter enlarged or altered, so as to become a building of a higher rate,—then the owner of such first-mentioned building of the higher rate, for the time being, shall be entitled to receive from the owner of such building of the lower rate, such sum of money as shall be a sufficient compensation for the ground occupied by that portion of the party-wall, which, according to the rate of the building enlarged, ought to have been built by its owner on his own ground, as well as the value of so much of the wall itself as may be more than the owner of such building of the lower rate had already paid for.

Construction and Materials.

And with regard to party-walls, in reference to the component materials thereof,—

Every part of such party-wall must be built of sound bricks, or of stone, or of such bricks and stone together, laid in and with mortar or cement, in such manner as to produce solid work.

And as to the wood work which it may be desired to connect with the party-walls of any building,—The bearing ends of wooden beams, brestsummers, girders, trimming joists, and the ends of partition-heads and sills, and the bearing ends of the main timbers of a roof, and wood-bricks, may be laid into the substance of a party-wall; but no such beam, brestsummer, girder, joist, partition-head or sill, nor any part of a roof being wood, nor any wood-bricks, must be laid or placed within four inches of the centre of any party-wall;—and no other wood-work of any kind must be laid into, placed upon, or be run or driven into any part of the substance of any party-wall.

But if the ends of timbers be carried on iron shoes or stone corbels, then such iron shoes or stone corbels must be built into the wall at the least one-half of the thickness of such wall.

And the top of every such party-wall must be finished with one course of sound stock-bricks, set on edge with good cement, or by a coping of any other properly secured and sufficient waterproof and fireproof covering.

Height of Party-walls above Roof.

And with regard to party-walls, in reference to the height thereof,—

If a party-wall adjoin to any roof,—then such party-wall must be carried up and remain one foot six inches at the least above the

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part where the party-wall and roof adjoin, measured at a right angle with the back of the rafters of such roof.

And if any party-wall in any building of the first class adjoin a gutter,—then such party-wall must be carried up, and remain two feet at the least above the highest part of any such gutter.

And if any party-wall in any building of the second class adjoin a gutter,—then such party-wall must be carried up, and remain three feet at the least above the highest part of any such gutter.

If there be fixed within five feet of a party-wall, upon the flat or roof of the building, any turret, dormer, lantern-light or other erection, of combustible materials,—then every such party-wall must be carried up next to every such turret, dormer, lantern-light or other erection, and must extend one foot six inches higher, and one foot six inches wider than any such erection on each side thereof.

Openings in Party-walls.

And for the purpose of regulating the making of openings through any party-wall between one dwelling-house and another, whereby two or more dwelling-houses shall be united.

With regard to any dwelling-houses of any rate, such dwelling-houses may be united by means of openings in the party-walls.

But with regard to any such dwelling-houses which when so united will contain more than fourteen squares,—

If such dwelling-houses shall be and continue to be in the same occupation, then, upon its being declared by the official referees that in their opinion the stability and security from fire of any or either of such dwelling-houses will not be endangered by making such openings, they may be made accordingly.

Recesses and Chases.

And further, with regard to any party-wall, as to recesses, and as to chases in such wall,—

In every story recesses may be formed, but only with the consent and authority of the official referees first had and obtained, and so that such recesses be arched over, and so that the back of any such recess be not nearer than seven inches to the centre of the party-wall in the first or lowest story, nor nearer than four inches to the centre of the party-wall in any other story, and so that the stability and sufficiency of such party-wall be not injuriously affected thereby.

If any chases be required for the insertion of ends of walls, of piers, of chimney-jambs, of withes of flues, of metal pipes, or of iron story-posts,—then every chase for any such purpose must not be left or be cut nearer than four inches at the least to the centre of a party-wall, nor within a distance of nine inches at the least from any front or back wall, and no two

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Schedules

SCHEDULE (D.)—PART III.—*continued.*

such chases must be made within a distance of seven feet six inches at the least from each other on the same side of a wall, and no such chase must be formed wider than nine inches.

SCHEDULE (D.)

PART IV.—PARTY-WALLS, AND PARTY-ARCHES BETWEEN INTERMIXED PROPERTY.

And with regard to any building already built, having rooms or floors, the property of different owners, which lie intermixed, without being separated by any party-wall or party-arch or stone floor,—

If any such building be altogether rebuilt, or to the extent of one-fourth of the cubical contents thereof,—then such intermixed properties must be separated from each other as follows:

If they adjoin vertically,—then so far as they adjoin vertically, they must be separated by a party-wall.

If they adjoin horizontally,—then so far as they adjoin horizontally, they must be separated either by a floor formed of brick, tile, stone or other proper and sufficient incombustible materials, subject to the consent of the official referees, or by a floor formed of iron-girders and brick-arches or stone-landings, or tiles, or by a party-arch or party-arches of brick or stone of the thickness of nine inches at the least, if the span do not exceed nine feet, and thirteen inches at the least if the span exceed nine feet; and such floor or party-arch or party-arches must be built with sufficient abutments and in a sufficient manner.

SCHEDULE (D.)

PART V.—BUILDINGS OVER PUBLIC WAYS.

And with regard to buildings extending over any public way, as to the part thereof which extends over such way, so far as relates to the separation of such part from such public way,—

If such part be rebuilt, then it must be separated from such public way, either by a floor or arch formed of brick or stone, or of other incombustible materials, subject to the consent of the official referees, or by a floor formed of iron-girders and brick-arches or stone-landings, or by an arch formed of brick or of stone; which arch, if the span thereof do not exceed nine feet, must be of the thickness of nine inches at the least, and

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SCHEDULE (D.)—Part V.—*continued.* *Schedules.*

which, if the span exceed nine feet, must be of the thickness of thirteen inches at the least.

And such floor or arch, with its abutments, must be built in such manner as shall be approved of by the surveyor; but there must not be formed over any public way a ceiling of lath and plaster, or of lath and cement.

SCHEDULE (E.) — (*see* Sec. 5.)

Rules concerning external Projections.

Porticoes projected over Public Ways.

And with regard to the portico or porticoes of any church, chapel, theatre or other public building of the third class,—

If the building of the same shall have been previously sanctioned by the official referees, by writing under their hands, and if objection be not made by any party interested within one month thereafter, and if, upon such objection or appeal, her Majesty's principal secretary of state acting for the home department, do not decide in favour thereof,—then such projections may be built over the foot pavement of any street or alley which shall be fifty feet wide at the least (notwithstanding any act heretofore passed to the contrary.)

Projections from Face-walls, &c.

And further, with regard to buildings hereafter to be built or rebuilt, in reference to projections therefrom,—

As to copings, parapets, cornices to overhanging roofs, blocking-courses, cornices, piers, columns, pilasters, entablatures, facias, door and window dressings, or other architectural decorations, forming part of an external wall,—all such may project beyond the general line of fronts in any street or alley, but they must be built of the same materials as are by this Act directed to be used for building the external walls to which such projections belong, or of such other proper and sufficient materials as the official referees may approve and permit.

And as to all balconies, verandahs, porches, porticoes, shop-fronts, open inclosures of open areas, and steps, and water-pipes, and to all other projections from external walls not forming part thereof,—every such projection (except such part of shop-fronts, and the frames and sashes of the windows and doors, in reference to the necessary wood-work thereof), may stand beyond the general line of fronts in any street or alley, but they must be built of brick, tile, stone, artificial stone, slate, cement or metal, or other proper and sufficient fire-proof materials; and they must be so built as not to

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overhang the ground belonging to any other owner, and so as to obstruct the light and air, or be otherwise injurious to the owners or occupiers of the buildings adjoining thereto, on any side thereof.

Projections from Walls of Buildings over Public Ways.

And with regard to all buildings hereafter to be built or rebuilt, in reference to projections from the walls of such buildings, including steps, cellar doors and area inclosures,—The walls of all such buildings must be set back, so that all projections therefrom, and also all steps, cellar doors and area inclosures, shall only overhang or occupy the ground of the owner of such building, without overhanging or encroaching upon any public way.

Projected Buildings beyond the general Line of Buildings and from other external Walls.

And with regard to buildings already built or hereafter to be rebuilt, as to bow windows or other projections of any kind,—Such projections must neither be built with, nor be added to any building on any face of an external wall thereof, so as to extend beyond the general line of the fronts of the houses (which general line may be determined by the surveyor), except so far as is hereinbefore provided with regard to porticoes projected over public ways, and with regard to projections from face-walls and shop-fronts; nor so as to overhang the ground belonging to any other owner; nor so as to obstruct the light and air, or be otherwise injurious to the owners or occupiers of the buildings adjoining thereto, on any side thereof.

Projections from insulated Buildings.

Provided always, with regard to any insulated buildings, that if the projections be at the least 8 feet from any public way, and if they be at least 20 feet from any other building not in the same occupation,—then such projections are excepted from the rules and directions of this Act.

Wooden Shop Fronts and Shutters.

And with regard to shop-fronts and their entablatures, their shutters and pilasters and stallboards, made of wood,—

If the street or alley in which such front is situate be of less width than 30 feet,—then no part of such shop-front must be higher, in any part thereof, than 15 feet; nor must any part, except the cornice, project from the face of a wall, whether there be an area or not, more than five inches;

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SCHEDULE (E.)—*continued.* *Schedules.*

nor must the cornice project therefrom more than 13 inches.

If the street or alley be of a greater width than 30 feet,—then no part of such shop-front, except the cornice, must project from the face of a wall, whether there be an area or not, more than 10 inches; nor must the cornice project therefrom more than 18 inches.

And the width of such street or alley must be ascertained by measuring the same, as hereinafter directed with regard to the widths of streets and alleys.

And the wood-work of any shop-front must not be fixed nearer than 4½ inches to the centre line of a party-wall.

And with regard to such wood-work, if it be put up at such distance of 4½ inches, then a pier or corbel built of stone or of brick or other incombustible material, and of the width of 4½ inches at the least, must be fixed in the line of the party-wall, so as to be as high as such wood-work, and so as to project one inch at the least in front of the face thereof.

And the height of every shop-front must be ascertained by measuring from the level of the public foot-pavement in front of the building.

And every sign or notice-board fixed against or upon any part of any house, or other building standing close to any public way, must be so fixed that the top shall be within 18 feet at the most above the level of such public way.

SCHEDULE (F.)—(*see* Sec. 5.)

RULES concerning CHIMNEYS hereafter built or rebuilt.

Construction.

With regard to chimneys and chimney stacks, except angle chimneys, in reference to the construction thereof,—

The foundations and footings of every such chimney and chimney stack must be built similar to those of the wall in or adjoining to which it shall be.

And every such chimney and chimney stack must be built from the foundation to the top thereof without any corbelling over, whereby any upper part of the brick-work of such chimney or chimney stack shall overhang any lower part of the brick-work on the front thereof.

Nevertheless, with regard to buildings of the first rate and extra first rate,—the jambs, breast and flue of any single chimney may be built upon brick, stone, or iron corbels, above the ceiling of the third story of every such building.

And with regard to buildings of the second and third rates,—the jambs, breast and flue in any single chimney may be

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Schedules.

SCHEDULE (F.)—*continued.*

built upon brick, stone or iron corbels, above the ceiling of the second story of every such building.

But the projection both of such jambs and breast, must not in any case exceed nine inches before the face of the wall or stack to which the same shall adjoin.

And with regard to angle chimneys, such chimneys may be built in the internal angle of any building, so that the width of the breast thereof do not exceed five feet; and so that it be properly supported on iron-girders, with brick-arches, or on strong stone-landings, not less than four inches thick, and tailed at least nine inches into each of the two walls forming such angle.

Dimensions and Materials.

And with regard to chimneys, in reference to the dimensions of the jambs thereof,—

The jambs of every chimney must not be less than 8½ inches wide on each side of such opening.

And with regard to chimneys and flues, in reference to the thickness of the brick-work thereof,—

The breast of every chimney, and the front, back, withe or partition, of every flue, must be at the least 4 inches in thickness of sound bricks, properly bonded, and the joints of the work must be filled in with good mortar or cement, and all the inside thereof, and also the outside or face thereof, next the interior of any building must be rendered or pargetted.

And with regard to flues, in reference to the dimensions thereof—no flue may be used for a smoke flue which is of less internal diameter in any section than 8½ inches.

Timber or Wood-work.

And with regard to chimneys, in reference to timber,—

No timber must be placed over any opening for supporting the breast of any chimney; but there must be an arch of brick or stone over the opening of every such chimney, to support the breasts thereof; and an iron bar or bars must be built into the jambs, at the least nine inches on each side, to tie in the abutments whenever the breast projects more than 4½ inches from the face of the wall, and the jamb on either side is of less width than two-thirds of the opening.

And no timber or wood-work must be placed or laid in any wall under any chimney opening within 18 inches at the least of the surface of the hearth to the fire-place of such chimney opening.

And as to any timber or wood-work, in reference to the fixing thereof in or against any wall containing flues or against any chimney-breast or chimney-jamb,—

If timber or wood work be affixed to the front of any jamb or mantel, or to the front or back of any chimney or flue,—then

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SCHEDULE (F.)—*continued.* *Schedules.*

it must be fixed by iron nails or holdfasts, or other iron fastenings, which must not be or be driven nearer than four inches to the inside of any flue or to the opening of any chimney, and such timber or wood-work must not be nearer than nine inches to the opening of any chimney.

And no timber must be laid or placed within three inches of the face or breast, back, side or jamb of any flue, or of any chimney-opening where the substance of brick-work or stone-work shall be less than 8½ inches thick, nor must any flooring-board, batten, ground skirting, or other lining or fitting of wood, nor any wood staircase, nor any thing else of wood, be fixed or placed against, or near to the face or breast, back, side or jamb, of any flue, fire-place, or chimney opening, unless and until the brick or stone-work constituting the same shall have been thoroughly and efficiently rendered or pargetted with proper mortar or stucco, and such rendering must be in every case in addition to four inches at least of solid fire-proof structure.

Slabs and Hearths.

And a slab or slabs of brick, tile, stone, slate, marble or other proper and sufficient substance, at the least 12 inches longer than the opening of every chimney when finished, and at the least 18 inches in front of the arch over the same, must be laid before the opening of every chimney.

And in every floor, except the lowest floor, such slab or slabs must be laid wholly upon stone or iron bearers, or upon brick trimmers, but in the lowest floor, they may be laid on a brick fender, or bedded on the solid ground.

And the hearth of every chimney must be laid and bedded wholly on brick or stone, or other incombustible substance, which must be solid for a thickness of nine inches at the least, beneath the surface of any such hearth.

Backs.

And as to the back of every chimney-opening of every building (except backs of chimneys in the lowest story of buildings of the fourth rate),—every such back, in the lowest story, must be at the least 13 inches thick from the hearth to the height of 12 inches above the mantel, and in every other story, at the least 8½ inches thick up to the same relative height.

And as to the backs of chimney-openings in the lowest story of buildings of the fourth rate,—such backs must be at the least 8½ inches thick, to the height of 12 inches at the least above the level of the mantle:

Provided always, that if the chimney be built in any wall, not being a party wall,—then the back of every such chimney-opening may be 4½ inches less than the several thicknesses above described.

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SCHEDULE (F.)—*continued.*

Chimney-openings back to back.

And as to backs of all such chimney-openings,—If two chimneys be built back to back,—then the thickness between the same must be at the least of the thickness hereinbefore described for the back of one chimney-opening.

Angles of Flues.

And as to all flues, in reference to the angles thereof,—

If any flue be built with sufficient openings in it of not less size than nine inches square, and proper close iron doors and frames inserted in such openings, so that every part of such flue may be swept by machinery,—then every angle in such flue may be of any degree.

But if it be not so built,—then every such angle must be 135 degrees at the least.

And every salient or projecting angle within a flue must be rounded off four inches at the least, and protected by a rounded stone, or iron bar.

Close Fires.

And as to every oven, furnace, cokel or close fire, used for the purpose of trade or manufacture,—it must be six inches at the least distant from any party-wall, and must not be upon nor within a distance of 18 inches of any timber or wood work.

And the floor on or above which such oven, furnace, cokel or close fire shall be built or fixed, must be formed and paved under, and for a distance of two feet all round the same, with stone, brick, tile or slate at the least two inches thick, or other proper incombustible and non-conducting materials.

Chimney Shafts.

And as to chimney-shafts or flues,—

Every chimney-shaft or flue hereafter built, raised or repaired, must be carried up in brick or stone work all round, at least four inches thick, to a height of not less than three feet above the highest part of such portion of the roof, flat or gutter adjoining thereto, measured at the point of junction.

And as to any chimney-shaft, (except that of a steam-engine, brewery, distillery or manufactory)—the brick or stone work of such shaft or flue must not be built higher than eight feet above the slope, flat, or gutter, of the roof which it adjoins, measured from the highest point of junction, unless such chimney-shaft be built of increased thickness, or be built with and bonded to, another chimney-shaft, or be otherwise rendered secure.

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SCHEDULE (F.)—*continued.* *Schedules.*

And as to the chimney-shaft for the boiler furnaces of any steam-engine, or for any brewery, distillery or manufactory,—such shaft may be erected of any height, so that it be built in such manner, and of such strength and dimensions, as shall be satisfactory to the official referees, upon special application in each case.

Chimney-Pots, Tubes, &c.

And as to earthen or metal chimney-pots, tubes, funnels, or cowls of any description whatsoever,—if such pot, tube, funnel or cowl, be higher than four feet above the brick or stone work of the flue on which the same shall be placed, then it must be fixed two feet at the least into the brick or stone work of the flue on which it shall be placed.

Smoke Pipes.

And as to any metal or other pipe or funnel for conveying smoke, heated air, or steam, in reference to the position thereof,—such pipe or funnel must not be fixed against or in front of any face of any building in any street or alley, nor on the inside of any building nearer than fourteen inches to any timber or other combustible material.

Cuttings into Chimneys.

And as to every chimney-shaft, jamb, breast or flue already built, or which shall be hereafter built, in reference to cutting the same,—no such erection shall be cut into for any other purpose than the repair thereof, or for the formation of soot-doors, or for letting in, removing, or altering, stove-pipes or smoke-jacks, except as directed for building an external wall against an old sound party-wall.

SCHEDULE (G.)—(*see* Sec. 5.)

Rules concerning Roof Coverings.

Materials.

With regard to roof coverings, in reference to the materials thereof,—

If the external parts of any roof, flat, or gutter of any building, or of any projection therefrom, and of any turret, dormer, lantern-light and other erection on the roof or flat of any

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Schedules.

SCHEDULE (G.)—*continued.*

building, be hereafter built or rebuilt, stripped, ripped or uncovered,—then every such part (except the door-frames and doors, window-frames and sashes of such turrets, dormers, lantern-lights, or other erections) must be covered with slates, tiles, metal, glass, artificial stone or cement, and such excepted parts may be made of such wood as shall be necessary.

Rain-water Pipes.

And with regard to the roof, flat and gutter of any building, and of any projection therefrom, and also balconies, verandahs and shop-fronts,—they must be so arranged and constructed, and so supplied with gutters and pipes, as to prevent the water therefrom dropping on to, or running over, any public way.

SCHEDULE (H.)—(*see* Sec. 5 & 51.)

RULES concerning DRAINS to Buildings hereafter built.

Drains into Sewers.

With regard to the drains of buildings of any class, and of every addition thereto,—

Before the several walls of any such building shall have been built to the height of 10 feet from their foundations the drains thereof must have been properly built and made good, (that is to say) if there be within 100 feet from any front of the building, or from the enclosure about the building, a common sewer into which it is lawful and practicable to drain,—then into such common sewer; and if there be not in such situation and within such distance any such common sewer,—then to the best outlet that can be obtained, so as to render, in either case, such drains available for the drainage of the lowest floor of such building, or addition thereto, and also of its areas, water-closets, privies and offices (if any).

And the inside of the main drains under and from every building for carrying off soil must be in transverse section, at the least equal to a circular area at least nine inches in diameter.

And every such drain must be laid to a fall or current of, at the least, half an inch to ten feet, and so as that the whole of every such drain within the walls of such building, shall be wholly covered over under the lowest floor, and independently thereof.

And every such drain within the walls of such building must be built and covered over with brick, stone or slate, and so as to render the drain air-tight.

And every part of such drain inside and outside the walls of

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SCHEDULE (H.)—*continued.* *Schedules.*

every building must be built of brick, tile, stone or slate, set in mortar or cement.

Cesspools and Privies.

And with regard to cesspools and privies,—

If there be a common sewer within 50 feet from any front of, or from the enclosure about, any house or other building,—then a cesspool must not be made for the reception of drainage from such house or other building, unless there be, or shall be built, a good and sufficient drain from such cesspool to such common sewer.

And if any cesspool be built under a house or other building,—then such cesspool must be built air-tight.

And every privy built in the yard or area of any building, or under any street or alley, must have a door, and be otherwise properly inclosed, screened and fenced from public view.

SCHEDULE (I.)—(*see* Sec. 5 & 52.)

Rules concerning Streets and Alleys hereafter formed.

Width.

With regard to every such street or alley, hereafter to be formed, in reference to the width thereof,—every street or alley must be of, at the least, the following width, from front to front, in every part thereof respectively; that is to say,—

Every street (excepting any mews) must be of the width of 40 feet at the least; but if the buildings fronting any street be more than 40 feet high from the level of the street,—then such street must be of a width equal, at the least, to the height of the buildings above such level.

Every alley and every mews must be of the width of 20 feet at the least; but if the buildings fronting any alley, or to any mews, be more than 20 feet high from the level of the alley or mews,—then such alley or mews must be of a width equal, at the least, to the height of the buildings above such level.

Entrances to Alleys.

And with regard to every such alley in reference to the entrance thereof,—every alley must have two entrances thereto, each being, at the least, of the full width of the alley, and one of the two, at the least, open from the ground upwards.

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Schedules.

SCHEDULE (I.)—*continued.*

Measurement of Width.

And with regard both to such streets and alleys,—the aforesaid width is to be ascertained by measuring (at right angles to the course thereof), from front to front of the buildings on each side of such street or alley.

SCHEDULE (K.)—(*see* Sec. 5 & 53.)

RULES concerning DWELLING-HOUSES hereafter built or rebuilt, with regard to Back-yards and Areas, and Rooms under-ground, and in the roof.

Back-yards.

With regard to back-yards or open spaces attached to dwelling-houses,—

Every house, hereafter built or rebuilt, must have an inclosed back-yard or open space of, at the least, one square, exclusive of any building thereon, unless all the rooms of such house can be lighted and ventilated from the street, or from an area of the extent of, at the least, three-quarters of a square, above the level of the second story, into which the owner of the house to be rebuilt is entitled to open windows for every room adjoining thereto.

And if any house already built, be hereafter rebuilt,—then, unless all the rooms of such house can be lighted and ventilated from the street, or from an area of the extent of, at the least, three-quarters of a square, into which the owner of the house to be rebuilt is entitled to open windows for every room adjoining thereto, there must be, above the level of the floor of the third story, an open space of at least three-quarters of a square.

And with regard to every building of the first class,—

Every such building must be built with some roadway, either to it, or to the enclosure about it, of such width as will admit to one of its fronts of the access of a scavenger's cart, of the ordinary size of such carts.

Lowermost Rooms.

And with regard to the lowermost rooms of houses being rooms of which the surface of the floor is more than three feet below the surface of the footway of the nearest street or alley, and to cellars of buildings hereafter to be built or rebuilt,—

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SCHEDULE (K.)—*continued.* *Schedules.*

If any such room or cellar be used or intended to be used as a separate dwelling,—then the floor thereof must not be below the surface or level of the ground immediately adjoining thereto, unless it have an area, fire-place and window as required for rooms and cellars of existing buildings let separately and used as a separate dwelling, and unless it be properly drained.

And with regard to every such lowermost-room or cellar in any existing building used or intended to be used as a separate dwelling,—

There must be an area not less than three feet wide in every part, from six inches below the floor of such room or cellar to the surface or level of the ground adjoining to the front, back or external side thereof, and extending the full length of such side.

And such area, to the extent of at least five feet long and two feet six inches wide, must be in front of the window of such room or cellar, and must be open, or covered only with open iron gratings.

And there must be made for every such room or cellar an open fire-place, with proper flue therefrom.

And there must be a window-opening of, at the least, nine superficial feet in area; which window-opening must be fitted with a frame filled in with glazed sashes, of which, at the least, four-and-a-half superficial feet must be made to open for ventilation.

Attic Rooms.

And with regard to rooms in the roof of any building hereafter built or rebuilt, in reference to the number of floors of rooms in the roof, and to the height of such rooms,—there must not be more than one floor of such rooms, and such rooms must not be of a less height than seven feet, except the sloping part, if any, of such roof, which sloping part must not begin at less than three feet six inches above the floor, nor extend more than three feet six inches on the ceiling of such room.

Rooms in other Parts.

And with regard to rooms in other parts of the building, in reference to the height thereof,—every room used or intended to be used as a separate dwelling must be of, at the least, the height of seven feet from the floor to the ceiling.

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SCHEDULE (L.)

List of Fees payable to the Surveyors under this Act.

Fees for New Buildings.

For any building erected on old or new foundations, as follows :—	Dwelling-House Class. £. s. d.	Warehouse Class. £. s. d.	Public Buildings Class. £. s. d.
If the building be of the 1st rate .	3 10 0	3 10 0	3 10 0
Ditto extra 1st ditto .	5 5 0	. . .	5 5 0
Ditto . 2d ditto .	3 3 0	3 3 0	3 3 0
Ditto . 3d ditto .	2 10 0	2 10 0	2 10 0
If the building be of the 4th rate, and contain more than two stories .	2 2 0	2 2 0	2 2 0
If the building be of the 4th rate, and do not contain more than two stories	1 10 0	2 2 0	1 10 0
And with regard to buildings of the warehouse class, a further fee to be paid in respect of any additional 200,000 cubic feet, or portion of 200,000 cubic feet, in any such building, beyond the first 200,000 cubic feet	. . .	- - equal to one-half of the above fees respectively.	
And for inspecting and reporting to the official referees (s. 24) on party-walls and intermixed buildings,—			
If the building be of the 1st rate .	3 10 0	3 10 0	3 10 0
Ditto extra 1st ditto .	5 5 0	. . .	5 5 0
Ditto . 2d ditto .	3 3 0	3 3 0	3 3 0
Ditto . 3d ditto .	2 10 0	2 10 0	2 10 0
If the building be of the 4th rate, and contain more than two stories .	2 2 0	2 2 0	2 2 0
If the building be of the 4th rate, and do not contain more than two stories	1 10 0	2 2 0	1 10 0
For every insulated building . .	1 1 0	1 1 0	1 1 0

For every detached building built for the purposes of trade or collection of tolls . . . . . 10*s.* 6*d.*

For every attached or detached building, distinctly rated (except any such attached or detached building, built at the same time as the building to which it belongs, and carried up and covered in within twenty-one days after such building shall have been covered in within the meaning of this Act,) such fee as is hereby imposed in respect of additions to, or alterations of, buildings of the rate to which such attached or detached buildings shall belong.

Fee for Additions or Alterations.

For every addition or alteration made to any building (after the roof thereof shall have been covered in), which shall involve

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SCHEDULE (L.)—*continued.* *Schedules.*

the execution of works subject to the regulations of this Act, the following fees; that is to say,—

	£		
If the building be of the 1st rate .	1	15	0
Ditto extra 1st ditto . .	2	10	0
Ditto . . 2d ditto . .	1	10	0
Ditto . . 3d ditto . .	1	5	0
If the building be of the 4th rate, and contain more than two stories . . .	0	15	0
If the building be of the 4th rate, and do not contain more than two stories . .	0	10	0

And with regard to buildings of the warehouse class, a further fee, equal to one half of the above fees respectively, to be paid in respect of every additional 200,000 cubic feet, or any portion of 200,000 cubic feet, in any such building beyond the first 200,000 cubic feet.

Fees for special Duties.

For the following special duties performed by any surveyor, according to the enactments of this Act, where such duties shall not be performed incidentally to the building or rebuilding of, or adding to or altering, any building in respect of which any other fees may be payable; that is to say—

For attending to the cutting away of chimney-breasts for external walls,—

	£		
If the building be of the 1st rate .	3	3	0
Ditto . extra 1st ditto . .	3	3	0
Ditto . . 2d ditto . . } Ditto . . 3d ditto . . }	2	2	0
If the building be of the 4th rate, and contain more than two stories	1	1	0
If the building be of the 4th rate, and do not contain more than two stories . .	0	10	6
For condemning party-fence-walls . . .	0	10	6
For the inspection and removal of projections and ruinous buildings	0	10	0
For surveying party-walls not kept in repair, and consenting to notice of repair being served	0	10	0
For inspecting arches or stone floors over public ways	0	10	0
For inspecting formation of openings in party-walls	0	10	0

Fees for special Services not expressly provided for.

For any service performed by any surveyor which is required by this Act, but not comprehended under any of the foregoing heads,—

Such fee, not exceeding 2*l.*, as the official referees shall by writing under their hands order and appoint, with the consent of the commissioners of works and buildings.

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METROPOLITAN

SUMMARY of PROCEEDINGS to be taken or observed

Sect. of the Act.	Stages of Proceeding.	Steps to be taken.	By whom taken.
	WORKS GENERALLY.		
13.	Before commencing the operations specified in this section.	Two days' notice to be given .	The builder. *See Definition*, s. 13.
13.	Before resuming operations, after being suspended for a period exceeding three months.	Two days' notice to be given .	The builder. *See Definition*, s. 13.
13.	On change of architect, master builder, or other superintendent.	Two days' notice to be given .	The builder. *See Definition*, s. 13.
14.	On the occurrence of any irregularity in building operations.	48 hours' notice to be given .	The district surveyor.
37.	As to openings hereafter made in external walls abutting on adjoining ground or buildings.	Notice to stop up within one month.	Adjoining owner.
	SPECIAL SUPERVISION.		
15.	On completion of the carcass of a building subject to special supervision.	Notice for inspection thereof .	The architect or builder.
15.	On completion of amendments, or the entire completion of a building, subject to special supervision.	Notice relative thereto . .	The architect or builder.
	PARTY-WALLS, &c.		
20, 21, 24, 25.	Before survey, repair, or pulling down of a party-wall, party-arch, or party-fence-wall.	Three months' notice before operations.	The building-owner. *See Definition*, s. 13.
24.	In the same case . . .	Notice for survey . . .	The building-owner. *See Definition*, s. 13.
,,	In the same case . . .	Appointment of survey . .	The district surveyor.
33, 34.	As to pulling down rooms in intermixed property, and repairing or rebuilding party-fence-walls.	Notice of intention to build a party-wall, or as directed by official referees.	The building-owner .
,,	In the same case . . .	Notice for inspection thereof .	The building-owner .
,,	In the same case . . .	Appointment of survey . .	The district surveyor .
26.	As to pulling down a timber partition, and erecting or raising a party-wall.	Three months' notice of intention to build or raise a party-wall.	The building-owner .
28.	Excavation against existing party-wall for a deeper story, and for the erection of an external wall.	One month's notice of intention to cut away footings or breast or shaft of a party-wall.	The building-owner .
38.	Building a party-wall on line of junction of two pieces of vacant ground.	One month's notice for consent of adjoining owner.	The building-owner .
38.	In the same case . . .	Notice of consent . . .	The adjoining owner .
	MODIFICATIONS.		
22, 23.	Modification or delay of intended work to suit adjoining owner.	Seven days' notice for consent .	The adjoining owner .
,,	In the same case . . .	Application for decision	The adjoining owner .
,,	In the same case . . .	Notice of application . .	The adjoining owner .

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RULE (M.)

BUILDINGS ACT.

Before and after NOTICES in relation to BUILDINGS.

With reference to whom taken.	Form of Notice to be given.	Place of Notice.	Subsequent Proceedings.
The district surveyor .	No. 1.	At the district surveyor's office.	£20 penalty for neglect. Existing buildings altered, &c. without notice, to be abated as a nuisance.
The district surveyor .	No. 2.	At the district surveyor's office.	£20 penalty for neglect.
The district surveyor .	No. 3.	At the district surveyor's office.	£20 penalty for neglect.
The builder . . .	No. 4.	At the builder's office, or place of building or of alteration.	Proceedings by surveyor or official referees.
Owner of external wall .	No. 5.	According to sections as to notifications.	To be stopped up.
The official referees .	No. 6.	At the official referees' office.	Survey and approval or disapproval by official referees. Prohibition of use of irregular buildings of this class, and penalty of £200 per day.
The official referees .	No. 7.	At the official referees' office.	Survey and certificate.
The adjoining owner .	No. 8.	According to sections as to notifications.	Inspection by surveyor. s. 24.
The district surveyor and official referees .	No. 9.	At the district surveyor's and the official referees' offices.	Inspection by surveyor, and report to official referees.
The owners and agents, &c.	No. 10.	To building and adjoining owners and agents.	Inspection by surveyor, and report to official referees.
The adjoining owner, and district surveyor, s. 20.	No. 11.	According to sections as to notifications.	Erection of wall.
The district surveyor and official referees .	No. 12.	At the district surveyor's and official referees' office.	Inspection by surveyor, and report to official referees.
The owners and agents, &c.	No. 13.	To building and adjoining owners and agents.	Inspection by surveyor, and report to official referees.
The adjoining owner .	No. 14.	According to sections as to notifications.	Erection of wall, or raising a wall.
The adjoining owner .	No. 15.	According to sections as to notifications.	Execution of operations.
The adjoining owner .	No. 16.	According to sections as to notifications.	Execution of operations.
The building-owner .	No. 17.	According to sections as to notifications.	Erection of wall.
The building-owner .	No. 18.	According to sections as to notifications.	If consent not given, commencement of works must be delayed for decision of official referees.
The official referees .	No. 19.	At the official referees' office.	Delay in commencing of operations.
The building-owner .	No. 20.	According to sections as to notifications.	,, ,,

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Schedules.

SCHEDULE (M.)—*continued.*

FORMS OF NOTICES AS TO WORKS.

METROPOLITAN BUILDINGS ACT, 7 & 8 VICT. c. 84, s. 13, 1844.

1.—*Notice by the Builder to the District Surveyor, Two Days before commencing Operations.*

I DO hereby give you notice, That I intend to (*a*) and that *C. D.* of is to be the (*b*) of the works to be executed; and that the said works will be begun on the day of

Dated this day of

(Signature and address.)

*** Certain penalties are attached to neglect in giving this Notice.

METROPOLITAN BUILDINGS ACT, 7 & 8 VICT. c. 84, s. 13, 1844.

2.—*Notice by the Builder to the District Surveyor, Two Days before resuming Operations.*

I DO hereby give you notice, That I intend to re-commence the (*c*) and that *C. D.* of is to be the (*b*) of the works to be resumed; and that the said works will be continued on the day of

Dated this day of

(Signature and address.)

*** Certain penalties are attached to neglect in giving this Notice.

METROPOLITAN BUILDINGS ACT, 7 & 8 VICT. c. 84, s. 13, 1844.

3.—*Notice by the Builder to the District Surveyor, as to Change of Builder.*

I DO hereby give you notice, That with reference to the works specified in my notice of last

(*a*) *Describing the erection or intended operation in general terms, and whether it relate to any of the following matters:—*

"The erection of any building;"

or, "The making of any addition to or alteration in any building;"

or, "The building, pulling down, rebuilding, cutting into or altering any party-wall, external wall, chimney-stack or flue;"

or, The making of "any opening in any party-wall;"

or, The doing of "any other matter or thing by this Act placed under the supervision of the surveyor."

(*b*) *Insert* "architect," *or* "builder," *or other superintendent to have charge of the works.*

(*c*) *Describing in general terms the works referred to in notice No.* 1, *and which works may have been suspended three months.*

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SCHEDULE (M.)—*continued.* *Schedules.*

E. F. (*c*) is to be placed in charge of the said works, instead of *C. D.* the (*c*) mentioned in the said notice.

Dated this day of

(Signature and address.)

Metropolitan Buildings Act, 7 & 8 Vict. c. 84, s. 14, 1844.

4.—*Notice by the District Surveyor to the Builder, as to any thing done in the Erection of any Building not conformably to the Act.*

I do hereby give you notice, That the (*d*) now in progress (*e*) situate in (*f*) is not conformable to the statute in the portions thereof under mentioned; and I require you within forty-eight hours from the date hereof, to amend the same.

Dated this day of at the hour of by the clock.

Note irregularities referred to.

(Signature.)

Metropolitan Buildings Act, 7 & 8 Vict. c. 84, s. 37, 1844.

5.—*Notice by an Owner or Occupier to an adjoining Owner or Occupier, to stop up an Opening in an External Wall abutting on his Premises.*

I do hereby give you notice, That if within one month from the date hereof you do not stop up the opening made in the external wall of your premises situate in (*g*) and which abuts on my (*h*) I shall, at your expense, cause the same to be stopped up, conformably to the statute.

Dated this day of

(Signature and address.)

FORMS OF NOTICES AS TO SPECIAL SUPERVISION.

Metropolitan Buildings Act, 7 & 8 Vict. c. 84, s. 15, 1844.

6.—*Notice by an Architect or Builder to the Official Referees,*

(*c*) *Insert* "architect," *or* "builder," *or other superintendent to have charge of the works.*

(*d*) *Insert* "building," *or* "alterations," *or* "building operations," *as the case may be.*

(*e*) *Insert* "under your superintendence," *or* "in the building belonging to you," *as the case may be.*

(*f*) *Insert the situation, as the case may be.*

(*g*) *Specify the situation.*

(*h*) *Insert* "ground," *or* "building adjoining."

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Schedules.

SCHEDULE (M.)—*continued.*

as to Completion of the Carcass of a Building subject to special Supervision.

I DO hereby give you notice, That the building now erecting under my superintendence in (*h*) being a building of the (*i*) and having been completed to the full height of the walls thereof, and the timbers, floors, roofs and partitions being fixed, I require you, in accordance with the statute, should you be of opinion that the building is subject to special supervision, to survey the same, and to certify accordingly.

Dated this day of

(Signature and address.)

*** A penalty of £200 per day for using any such building without its being certified subsequent to notice as above and following.

METROPOLITAN BUILDINGS ACT, 7 & 8 VICT. c. 84, s. 15, 1844.

7.—*Notice by an Architect or Builder to the Official Referees, as to Completion of Amendments, and of Buildings subject to special Supervision.*

I DO hereby give you notice, That the building now erecting under my superintendence in (*h*) being a building of the (*i*) and having been completed in pursuance of your survey and notice subsequent, I require you, in accordance with the statute, to survey the same, and to certify accordingly.

Dated this day of

(Signature and address.)

*** This notice will be used both with reference to the completion of amendments and to the entire completion of a building.

FORMS OF NOTICES AS TO PARTY-WALLS, &c.

METROPOLITAN BUILDINGS ACT, 7 & 8 VICT. c. 84, ss. 20, 21, 24, 25, 1844.

8.—*Notice to be given (Three Months before commencing Operations) by an Owner or Occupier, to an adjoining Owner or Occupier, that the Party-wall, or Party-arch, or Party-fence-wall is out of Repair.*

I DO hereby give you notice, That I apprehend that the (*k*)

(*h*) *Specify the situation.*

(*i*) *Insert* "first rate of second class," *or* "of the third class," *as the case may be.*

(*k*) *Insert* "party-wall," *or* "party-arch," *or* "party-fence-wall," *as the case may be.*

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SCHEDULE (M.)—*continued.* *Schedules.*

or some part thereof, on the line of junction between my (*l*) situate, &c., and the (*l*) thereto adjoining, situate on the side thereof, is so far out of repair (*m*) as to render it necessary to (*n*) such wall or some part thereof; and that I intend to have such wall surveyed, pursuant to the statute; and also, that I have given notice to the surveyor of the district and to the official referees to survey the premises, for the purpose of certifying the condition of such wall, and whether the whole or any part thereof ought to be repaired or pulled down and rebuilt, and to certify accordingly.

Dated this day of

(Signature and address.)

Metropolitan Buildings Act, 7 & 8 Vict. c. 84, s. 20, 1844.

9.—*Notice, in the same Case, to the Surveyor and Official Referees.*

I do hereby give you notice, That I apprehend that the (*o*) or some part thereof, on the line of junction between my (*l*) situate in and the (*l*) thereto adjoining, situate on the side thereof, is so far out of repair (*m*) as to render it necessary to repair or pull down and rebuild such wall, or some part thereof; and that I require a survey thereof to be made, pursuant to the statute, and that in presence of such one or more surveyors or agents appointed by me, as undermentioned, or by *C. D.*, the owner of the adjoining property, for the purpose of certifying the condition of such wall, and whether the whole or any part thereof ought to be repaired or pulled down and rebuilt; and I do hereby also intimate that I have served a notice on *C. D.* to the like effect.

Dated this day of

(Signature and address.)

Names and addresses of one or more surveyors or agents for building-owner.

(*l*) *Insert* "house," *or* "building," *or* "ground," *as the case may be.*

(*m*) *Insert when required* "or has been rendered dangerous and ruinous by cutting away footings," *or* "breasts," *or* "chimney-shafts."

(*n*) *Insert* "repair," *or* "pull down and rebuild," *as the case may be.*

(*o*) *Insert* "party-wall," *or* "party-arch," *or* "party-fence-wall," *as the case may be.*

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Schedules.

SCHEDULE (M.)—*continued.*

METROPOLITAN BUILDINGS ACT, 7 & 8 VICT. c. 84, ss. 20, 24, 1844.

10.—*Notice, in the same Case, by the District Surveyor, to the Building-Owner and adjoining Owner, and such one or more Surveyors and Agents by them appointed.*

I, surveyor of the district, do hereby give you notice, That, in pursuance of an application made to the official referees and to me in that behalf, it is my intention to proceed to view the premises (*r*) situate in for the purpose of certifying the condition of the (*s*) and whether any part thereof is so far out of repair as to require to be either wholly or in part repaired, or pulled down and rebuilt; and such survey I do intend to make on the day of next, at by the clock in the noon, in the presence of any one or more surveyors or agents on behalf of the building-owner and the adjoining owner.

Dated this day of

(Signature and address.)

METROPOLITAN BUILDINGS ACT, 7 & 8 VICT. c. 84, ss. 33, 34, 1844.

11.—*Notice to be given Three Months before commencing Operations, by an Owner to an adjoining Owner.*

I DO hereby give you notice, That I intend to (*t*) and that I intend to have such (*u*) surveyed conformably to the statute; and that I have given notice to the district surveyor and to the official referees to survey the premises, and to certify accordingly.

Dated this day of

(Signature and address.)

METROPOLITAN BUILDINGS ACT, 7 & 8 VICT. c. 84, ss. 33, 34, 1844.

12.—*Notice, in the same Case, to the Surveyor and Official Referees.*

I DO hereby give you notice, That I intend to (*t*)

(*r*) *Designated by number or other name.*

(*s*) *Insert* "party-wall," *or* "party-arch," *or* "party-fence-wall," *as the case may be.*

(*t*) *Specify the kind of operation, as to whether it be intended*—

"To raise a party-fence-wall;"

or, "To repair or rebuild a party-fence-wall;"

or, "To pull down and rebuild rooms in intermixed property, &c.;" *and specifying the situation, &c.*

(*u*) *Insert* "party-fence-wall," *or* "rooms in intermixed property."

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SCHEDULE (M.)—*continued.* *Schedules.*

and that I require a survey thereof to be made, pursuant to the statute, and that in presence of such one or more surveyors or agents appointed by me, as undermentioned, or by *C. D.*, the owner of the adjoining property, for the purpose of certifying whether the whole or any part (*u*) ought to be pulled down and rebuilt; and I do hereby also intimate that I have served a notice on *C. D.* to the like effect.

Dated this day of

(Signature and address.)

Names and addresses of one or more surveyors or agents for building-owner.

Metropolitan Buildings Act, 7 & 8 Vict. c. 84, ss. 33, 34, 1844.

13.—*Notice, in the same Case, by the District Surveyor to the Building-Owner and adjoining Owner, and such one or more Surveyors and Agents by them appointed.*

I, surveyor of the district, do hereby give you notice, That, in pursuance of an application made to the official referees and to me in that behalf, it is my intention to proceed to view the premises (*x*) situate in for the purpose of certifying whether any part of such (*y*) require to be (*z*) and such survey I do intend to make on the day of next, at by the clock in the noon, in the presence of any one or more surveyors or agents whom the parties concerned shall appoint for that purpose.

Dated this day of

(Signature.)

Metropolitan Buildings Act, 7 & 8 Vict. c. 84, s. 26, 1844.

14.—*Notice to be given Three Months before commencing Operations, by an Owner to an adjoining Owner, where no Survey is required.*

I do hereby give you notice, That I intend to (*a*) pursuant to the statute.

Dated this day of

(Signature and address.)

(*u*) *Specify the kind of operation intended.*
(*x*) *Designated by number or other name.*
(*y*) *Specify the kind of operation intended.*
(*z*) *Insert* "raised," *or* "repaired," *or* "pulled down and rebuilt," *as the case may be.*
(*a*) *Specify the kind of operation, as to whether it be intended—*
"To pull down a timber partition, and instead thereof to build a party-wall," *or* "to rebuild a sound party-wall."
or, "To raise a party-wall."

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METROPOLITAN BUILDINGS ACT, 7 & 8 VICT. c. 84, s. 28.

15.—*Notice of Intention to build an External Wall against existing Party-wall, and for that purpose to cut away Footing, Breast and Shaft of an existing Party-wall.*

I DO hereby give you notice, That it is my intention, one month after the date hereof, to build an external wall against the existing party-wall by which our premises are parted, situate , and to cut away such portion of the footing or chimney-breast or shaft in such party-wall as will be necessary for that purpose.

Dated this day of

(Signature and address.)

METROPOLITAN BUILDINGS ACT, 7 & 8 VICT. c. 84, ss. 38, 39, 1844.

16.—*Notice of Desire to build a Party-wall on the Line of Junction of Two Pieces of vacant Ground.*

I DO hereby give you notice, That I desire to build partly on my land or ground adjoining your vacant ground, and partly on your vacant ground, on the line of junction of the said premises(*b*), which will be of the under-noted thicknesses and dimensions; and should you consent thereto, I require you to signify such consent in writing on or before the day of next.

Dated this day of

(Signature and address.)

Note of the thickness and dimensions.

METROPOLITAN BUILDINGS ACT, 7 & 8 VICT. c. 84, ss. 38, 39, 1844.

17.—*Notice of Consent to the Building of a Party-wall on the Line of Junction of Two Pieces of vacant Ground.*

I DO hereby give you notice, That I consent to the building of a (*b*) partly on my land or ground adjoining your vacant ground, on the line of junction of the said premises, which I require to be of the under-mentioned thicknesses and dimensions, and other particulars.

Dated this day of

(Signature and address.)

Note of the thickness and dimensions, and other particulars.

(*b*) *Insert* "party-wall," *or* party-fence-wall," *or* "external wall," *as the case may be.*

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SCHEDULE (M.)—*continued.* *Schedules.*

FORMS OF NOTICES AS TO MODIFICATION OR DELAY OF INTENDED BUILDING OPERATIONS.

Metropolitan Buildings Act, 7 & 8 Vict. c. 84, ss. 22, 23, 1844.

18.—*Requisition to a Building-Owner by an adjoining Owner as to Modification or Delay of intended Work on his behalf.*

I do hereby give you notice, That I require you to (*c*) the works specified in your notice of the day of in consequence of the inconvenience and loss that would arise to me if the same were executed at the time proposed by you; and if you do not consent hereto, or dissent therefrom, within days, then, in pursuance of the statute, you are hereby required to delay your intended operations until the official referees shall have determined thereon.

Dated this day of

(Signature and address.)

Note of modifications.

Metropolitan Buildings Act, 7 & 8 Vict. c. 84, ss. 22, 23, 1844.

19.—*Notice by an adjoining Owner to the Official Referees as to the Modification or Delay of intended Works of a Building-Owner.*

I do hereby give you notice, That *C. D.*, of having specified in his notice of the day of certain works to be executed subsequent to the day of next; and I having served upon him a requisition in reference to the (*d*) of the works so intended by him, in consequence of the inconvenience and loss that would arise to me if the same were executed at the time proposed by him, and he not having attended thereto, it is my desire that a survey be made in pursuance of the statute, with reference to such works, and the notices referred to.

Dated this day of (*e*)

(Signature and address.)

Note of modifications.

(*c*) *Insert* "modify, as under-noted," *or* "delay until the day of ," *as the case may be.*

(*d*) *Insert* "modification as under-noted," *or* "delay until the day of ," *as the case may be.*

(*e*) *Within seven days after the previous requisition.*

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Schedules.

SCHEDULE (M.)—*continued.*

METROPOLITAN BUILDINGS ACT, 7 & 8 VICT. c. 84, ss. 22, 23, 1844.

20.—*Notice by an adjoining Owner to a Building-Owner as to Application to the Official Referees for Survey of intended Works with reference to the Modification or Delay thereof.*

I DO hereby give you notice, That, in consequence of your not consenting to the (*f*) of the works intended by you, as specified in my requisition of the day of last, I have applied to the official referees for a survey of the premises, pursuant to the statute.

Dated this day of (*g*)

(Signature and address.)

(*f*) *Insert* "modification," *or* "delay," *as the case may be.*
(*g*) *Within seven days after the previous requisition.*

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ANALYSIS

OF

RULES OF PRACTICE,

UNDER THE

PROVISIONS OF THIS ACT.

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ANALYSIS.

PART I.

NEW BUILDINGS, ALTERATIONS, AND ADDITIONS.

CHAPTER I.—*Erection of New Buildings, and Execution of Alterations in, or Additions to, existing Buildings, subject to the Controul of this Act, and to the Supervision of the District Surveyor.*

Before commencement of works, two days' notice to be given (Form, No. 1,) by the builder to the district surveyor at his office, under a penalty of £20 fine, and treble fees to district surveyor.

On suspension of works for any period exceeding three months, or on change of master builder, two days' notice (Forms, No. 2 & 3,) to be given by the builder to the district surveyor, under a penalty of £20, and pulling down of works executed during default of such notice (s. 13).

If the surveyor or official referees be refused admittance by the builder at any reasonable time, works executed during such refusal are liable to be pulled down.

On receipt of forty-eight hours' notice from the district surveyor of any irregularities, (Form, No. 4,) the works complained of must be amended forthwith, in conformity with the Act, (s. 14,) or in default, the district surveyor is empowered to amend them at the expense of the builder. In case of dispute between the builder and the district surveyor, appeal may be made to the official referees, whose decision is to be final, both as to the matters in dispute, and as to the costs of the appeal.

Fees become payable to the district surveyor one month after covering in, and completion of walls, roof, timbers, partitions, and floors of new buildings; and fourteen days after completion of any alterations or additions to existing buildings (s. 77).

*** It is as well to premise, that two days' notice must be given to the district surveyor in all cases, before commencement of any of the works hereinafter detailed; and, indeed, of any works whatsoever, which come within the jurisdiction of this Act.

CHAPTER II.—*As to the same Proceedings, where the Buildings are subject to the special Supervision of the Official Referees, as well as to the Supervision of the District Surveyor.*

The works having been completed according to the preceding chapter, to the satisfaction of the district surveyor, seven days' notice (Form, No. 6,) must be given by the builder to the official

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referees; whose approval is to be certified to the builder within the next seven days (s. 15).

In case of disapproval by the official referees of any portion of the work, notice is to be given by them in writing to the builder, stating their objections.

On amendment of the irregularities, the builder gives fresh seven days' notice to the official referees, (Form, No. 7,) who must approve or disapprove within seven days.

In case of approval the certificate must be officially sealed by the registrar of buildings. In case of disapproval, the same course must be gone over again, until the official referees are satisfied.

The penalties for using any building subject to the supervision of the official referees, without their certificate of approval, is to be fixed by two magistrates, at not more than £200 for every day such building shall have been so used.

CHAPTER III.—*As to Buildings included in Schedule* (B.), *which are subject to the special Supervision of the Official Referees alone.*

Before commencement of the works, notice to be given to the official referees by the builder, and the proposed plans to be submitted to them. The official referees having viewed and approved of the situation and plans of the proposed building, the builder may proceed on receipt of such approval.

The official referees will then fulfil the same duties of inspection during progress and approval on completion, as would have belonged to the district surveyor (s. 16,) if the building had been such as to be included under section 1, above described.

The penalty for using any building subject to the special supervision of the official referees, without their approval, to be fixed by two magistrates, at not more than £100 for every day such building shall have been so used.

PART II.

PARTY-WALLS, PARTY-FENCE-WALLS, AND PARTY-ARCHES IN INTERMIXED PROPERTIES.

CHAPTER I.—*Erection of original Division Walls, Party-walls, or Party-fence-walls on the Line of Junction of vacant Ground.*

Building-owner to give one month's notice (Form, No. 16,) to adjoining owner, who must signify his consent in writing within that time (Form, No. 17). On receipt of consent, building-owner may erect such walls, &c. on equitable proportion of adjoining owner's ground, but altogether at the expense of the building-owner, who must also pay a fair value for the proportion

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of the adjoining owner's land used by him for building such party-walls, &c. The value to be decided by the official referees (s. 38).

In case the adjoining owner should not give his consent, then the building-owner must erect the walls, &c. as external walls altogether on his own ground.

*** Although the building-owner cannot compel the adjoining owner to contribute to the building of the party-walls, &c. herein alluded to, such adjoining owner cannot make use of such party-walls, &c. without first contributing his fair proportion of the cost of the same (s. 46).

CHAPTER II.—*Rebuilding of ruinous, insufficient, or defective Party-walls.*

Building-owner to give notice (Form, No. 8,) to adjoining owner three months before commencement of works (s. 21).

Adjoining owner, within seven days after receipt of such notice, (s. 22,) to signify his consent to or dissent from the execution of the works; and also to state, if dissenting, the period of delay, or the variations or modifications in the works which he may require (Form, No. 18).

Building-owner, within seven days after receipt of such notice of variations or modifications, &c., to signify his consent to or dissent from the same: the silence of the building-owner in this case to be deemed dissent.

IN CASE OF DISSENT, adjoining owner to apply, within seven days, to official referees, (Form, No. 19,) and to serve notice of such application (Form, No. 20,) on the building-owner.

Building-owner, on receiving notice of such application, to delay all proceedings, until the decision of the official referees be known; such decision to be finally binding on both parties.

IN CASE OF ABSENCE OR LEGAL DISABILITY OF ADJOINING OWNER, building-owner may serve the notice required (Form, No. 9,) on the district surveyor and official referees (*a*); surveyor then to appoint a view forthwith, giving notice to both parties, (Form, No. 10,) and certify to the official referees whether the work is proper or improper to be done, or whether any and what modifications and variations ought to be adopted; also what compensation is to be paid to the adjoining owner for the ground to be taken by the building-owner (s. 24).

Official referees, on receipt of report from district surveyor, to give notice of such report to all parties, who are to appeal against the same to the official referees within seven days; and, in default of any appeal, the official referees will confirm the sur-

(*a*) It does not appear in the Act what proof is required of absence or legal disability. The safest mode of proceeding would therefore seem to be to suffer the seven days allowed to the adjoining owner to elapse before service of notice on the district surveyor and official referees, for the authorisation of the compulsory proceedings hereinafter detailed.

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veyor's report, and authorise the building-owner to proceed; or, on appeal, will view the premises, and make such alterations and modifications as may appear to them just and proper: the award of the official referees to be final.

The building-owner cannot, however, under any circumstances, unless by consent, proceed before the expiration of three months from the date of the first notice to the adjoining owner.

*** The building-owner must, in all cases, pay every expense incurred throughout these proceedings (s. 20); he must also compensate the adjoining owner for any additional ground which he may require (s. 24); and make good every damage incidental to the work sustained by such adjoining owner; and although the words of the Act are not sufficiently explicit on this last head, as to what is to be deemed incidental damage, it appears perfectly clear that the Act intends the building-owner to bear (as indeed he ought) all expenses of reparation of the adjoining owner, both exterior and interior, substantial and ornamental (ss. 28, 29); but it would not seem, however, that he (the building-owner) is rendered liable for any loss of rent sustained by the adjoining owner.

CHAPTER III.—*Rebuilding of Party-walls, &c., for Buildings of a higher Class or Rate than those adjoining.*

Any building-owner rebuilding a sound party-wall requiring no survey, must give three months' notice, (Form No. 14.)

The building-owner has the option of rebuilding a party-wall of the highest rate, according to the practice detailed *ante*, (Chap. II.), or of building an external wall against the adjoining party-wall, always provided that such party-wall be sound (s. 27).

The building-owner will be equally bound to make good any damage resulting from or consequent on his operations, as if he rebuilt the party-wall (s. 28).

It does not appear that any notice (*b*) is necessary to the adjoining owner, in case of erection of an external wall, unless some part of the party-wall be cut away or otherwise affected, in which case one month's notice (Form, No. 15,) must be given by building-owner (s. 28).

*** The building-owner, by constructing an external wall against a sound party-wall, does not thereby give up the right to his fair proportion of the soil on which such party-wall is built, nor of the materials of which it is composed (s. 30); but he has a right to compensation for both, in case such party-wall should be at any time pulled down and rebuilt by the adjoining owner, and the soil and materials made use of by him, any

(*b*) Courtesy, however, as well as a wish for security against any proceedings, has always hitherto dictated the service of a notice on the adjoining owner, even where such notice was not legally necessary.

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dispute as to value to be finally settled by award of the official referees.

It would appear, however, that if the adjoining owner, on pulling down such party-wall, build an external wall also, and thereby make no use of the soil or materials, he is not bound to pay any compensation for the same.

CHAPTER IV.—*Raising of Party-walls.*

Building-owner to give two days' notice (Form, No. 1,) to district surveyor, and to bear all expenses incidental to the work; also to raise the chimneys of the adjoining owner, and to pay compensation for all damage sustained by such adjoining owner (s. 31). Such adjoining owner cannot however use any wall so raised, without first paying his fair proportion of the cost of the same (s. 31).

CHAPTER V.—*Repairing, Rebuilding, and Raising of Party-fence-walls.*

Either owner may repair, rebuild, or raise to the height of nine feet from the ground, any party-fence-wall on giving two days' notice to the district surveyor, and payment of all expenses and damages (s. 32).

Either owner may pull down and rebuild any party-fence-wall which is insufficient for an intended building, on observance of the prescribed regulations, and payment of all expenses and damages.

*** Although the Act is silent on the subject, it would seem that the building-owner in the latter of these two cases must give the notices prescribed, and in all other matters go through the several proceedings laid down in Chap. I. Part II. (*ante*, page 158) for the erection of original party-walls.

CHAPTER VI.—*Pulling down Rooms in existing Buildings on Intermixed Property; and Erection of Party-walls on the Line of Junction.*

The building-owner to give notice to the adjoining owner of his intention to build; and also to the district surveyor (Forms, No. 11 & 12), three months before commencement of the works (s. 32). In case of dissent by the adjoining owner, notice of appointment for survey to be given to both parties (Form, No. 13), by the district surveyor, who, after survey, will report to the official referees, who will authorise the work to proceed, and award the proportion of expense to be borne by each party (ss. 34, 50).

CHAPTER VII.—*Pulling down of existing Timber Partitions, and Substitution of Party-walls.*

The building-owner to give notice (Form, No. 14,) to the adjoining owner, three months before commencement of the works; all other proceedings will then follow as in the case of the

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erection of an original party-wall. (See *ante*, Part II. Chap. I.), with the following exceptions (s. 33):—

1. That the taking down of the fronts of either of the adjoining buildings to the height of one story, or for a space equal to one-fourth of such front from the level of the second floor upwards, makes the substitution of a party-wall for an existing timber partition, compulsory on all parties (s. 33).

2. That in any case of such substitution, all the owners on either side are bound to contribute their proportions of the expense, which in other cases falls upon the building-owner alone (s. 33).

*** The several Inns of Court are specially exempted from the operation of the Act in this respect (s. 35).

CHAPTER VIII.—*Excavation by a Building-owner against an existing Party or External Wall, for the purposes of a lower Story or a deeper Foundation.*

Any building-owner desirous of excavating against an existing party or external wall, or to cut away the footings, or chimney-shaft or breasts of any such wall, to give one month's notice (Form, No. 15,) to adjoining owner.

The chimney-breasts and shafts, and the footings so cut away, to be made good in cement by the building-owner, under the supervision, and to the satisfaction of, the district surveyor (s. 28).

The wall so cut away to be shored up, underpinned, and made good at the cost of the building-owner; and the building-owner to make good all damages of every kind sustained by the adjoining owner from the effects of the work; and if the wall, from the effects of such cutting away, should be condemned as ruinous or insecure by the district surveyor on survey, by application of any party, or otherwise: the building-owner is bound to rebuild such wall, and make good every damage sustained by the adjoining owner, in consequence of, or incidental to, such rebuilding (s. 29).

CHAPTER IX.—*As to Openings in Party or External Walls, abutting on, or overlooking the Ground or Buildings of the Adjoining Owner.*

If any owner make an opening in any party or external wall, or if any such exist without right, the adjoining owner must serve notice (Form, No. 5,) on the owner having made such opening, to stop up the same within one month (s. 37).

In case of neglect of such notice, the owner giving such notice may stop up the same, and recover the costs from the first owner, according to the means provided by the Act.

*** The owner of the opening so stopped up, has, of course, his remedy by action of trespass in case of right by uninterrupted possession, &c., according to the 2 & 3 Will. IV. c. 71. (See note to section 37 of this Act, *ante*, page 41).

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PART III.

RUINOUS, OR DANGEROUS BUILDINGS.

CHAPTER I.—*Ruinous Buildings.*

The district surveyor on receiving notice of any buildings being in a ruinous or dangerous state, to report the same forthwith to the official referees.

The official referees having directed a survey, the surveyor to make the same, and report again to the official referees.

The official referees on receipt of such report of the district surveyor, to transmit a copy of the same to the lord mayor, (if within the city of London,) or to the overseers of the poor, (if without the city of London,) and the lord mayor or overseers, as the case may be, must erect a hoard for the protection of the public, and give notice to the owner to repair or pull down the building within fourteen days (s. 40).

If within the said fourteen days the owner does not begin to repair or pull down, and afterwards complete the same with all reasonable despatch, the lord mayor, or a magistrate, on application by the overseers, and proof of service of notice, will authorize the pulling down of the dangerous portions, and defray the expenses out of the sale of the materials; the owner being liable to make good any deficiency (ss. 40, 41, 42).

In case of appeal by the owner, or any other parties, against the condemnation of any building certified by the district surveyor as dangerous to the official referees, the official referees must view the same, and their decision will be final (s. 40).

CHAPTER II.—*Ruinous Chimneys.*

In case of chimneys being dangerous in the opinion of the district surveyor, the occupier or owner must repair the same within thirty-six hours after receipt of notice (s. 43).

If there be no occupier nor owner, or if the occupier or owner neglect the notice, the district surveyor to report to a magistrate, who will order the reparation, securing, or pulling down of the same, as he may deem best for the public safety.

The expenses having been certified by the official referees, to be paid by the overseers of the parish, and to be recoverable by such overseers from the then occupier or owner, or from any future occupier or owner of the property, the occupier being authorised to deduct the same from his rent.

In case of chimneys falling, the owner of such chimneys is liable to pay to the adjoining owner all damages consequent upon such fall (s. 44).

This provision, however, does not extend to damage done by the fall of all, or any portion of a party-wall.

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PART IV.

LEGAL SERVICES AND REMEDIES.

CHAPTER I.—*Service of Notices.*—(1.) *Upon whom to be served.*

With regard to the service of the required notices upon *the owner or occupier* of any building or ground, the Act provides (s. 101), that—

If such owner be a MARRIED WOMAN, other than a *cestuique* trust in regard to such property, then such notice must be given to her husband; or—

If such owner be an INFANT, IDIOT, or LUNATIC, or CESTUIQUE TRUST, then such notice must be given to the guardian, trustee or committee of such infant, idiot or lunatic, or *cestuique* trust; or—

If such OWNER, husband, trustee, guardian or committee, is NOT KNOWN or CANNOT BE FOUND, then such notice must be given to the occupier of the building, fence or ground to which it may relate; or—

IF SUCH BUILDING OR GROUND BE UNOCCUPIED, then the notice must be affixed to some conspicuous part of such building, fence or ground, at a height of not more than nine feet from the ground.

IF THE OCCUPIER of the ground or building in respect of which the notice is to be given, say he IS NOT THE OWNER, then notice must be given to his immediate landlord, whose name and address the occupier is bound to furnish.

IF THE LANDLORD BE ONLY PART OWNER, or in receipt of part only of the rents or profits, on receiving notice as above, he is bound to transmit a copy of it to the other persons interested. If he fail to do this, and any of those persons suffer damage through his neglect, he or they may have a remedy against him, but the service upon the immediate landlord or his agent by or on behalf of the person bound to serve it in the first instance will be deemed a sufficient service, notwithstanding any default in the party so served.

(2.) *How to be served.*

Notice to the OCCUPIER must be served (s. 113,) either on him personally, or by leaving it with some inmate of the house, or by affixing it on some conspicuous part of the premises, as directed above.

Notice to the OWNER must be served (except in certain cases specified below) either on him personally, (s. 114,) or by leaving it with some inmate at his usual place of abode, or at his last known place of abode, or by affixing it as above directed.

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If the owner be not within the limits of the Act, and have no agent acting for him in respect of the premises concerning which the notice is to be served, within those limits, then notice may be transmitted to him by the post (s. 115), taking care to forward it at such a time as shall allow him, after the receipt of the letter, the full period of notice required in the case; and also that the letter be registered.

NOTICE TO THE SURVEYOR must be served at the office of such surveyor (s. 116).

NOTICE TO THE OFFICIAL REFEREES, or any one of them, must be left at the office of the registrar of metropolitan buildings (s. 116).

CHAPTER II.—*Entry on Premises for the purposes of Inspection.*

Any works done or to be done in pursuance of this Act, are to be completed to the satisfaction of the district surveyor and the official referees, and for the purpose of ascertaining the manner in which they have been executed, those parties are empowered to enter upon the premises at all convenient times for the purpose of inspection. Also before any work is begun, the surveyor is authorised to inspect the premises. If any person refuse to admit the parties thus empowered to enter and inspect (s. 17), he forfeits for every offence a sum not exceeding £20, and the work is liable to be pulled down; and the parties so refused may, with the aid of a peace-officer, make a forcible entry on the premises for the discharge of the duties which the Act has imposed on them (s. 17).

CHAPTER III.—*Entry on Premises for the purpose of building Party-walls, Party-fence-walls, or executing other Works under the Provisions of the Act.*

For the purpose of facilitating the execution of works authorised under this Act, the building-owner or some person on his behalf, may, accompanied by a constable or other officer of the peace, make an entry on the adjoining premises (s. 36), so far as may be necessary for executing such work, at any time between the hours of six in the morning and seven in the afternoon (Sundays excepted). And if the outer door be closed, and the parties refuse to open it, or the house be unoccupied and the door fastened, then such outer door may be broken open, and all furniture, fixtures and goods in the way of the necessary operations removed, either to some other part of the house, or to any place of safe custody. And from and after the first entry, the builder and all his men may have free access to the premises, and be permitted to remain thereon during all the usual hours of working; and if any hindrance be offered, the person guilty will forfeit a sum not exceeding £10.

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CHAPTER IV.—*Summons for building contrary to the Act, or for Refusal to amend on Notice.*

In the case of every building subject to the supervision of this statute; if the district surveyor on surveying it give a notice of disapproval, it is the duty of the architect or builder (s. 14) to amend the parts complained of, after which a fresh survey is made when the work is complete, and, if approved of, a certificate of approval is given by the official referees. If, before that certificate be obtained, a building subject to special surpervision be used for any purpose, the party offending may be fined not more than £200 per day for the time during which it has been so used, if the building be of the highest rate. If it be of the rate in Schedule (B.) the fine shall not exceed £100 per day (s. 16).

If in building, repairing, or altering within the jurisdiction of this Act, any of its regulations are infringed, the builder is to be summoned before two justices (s. 18), and compelled to enter into recognizances to alter and amend the work, on pain of imprisonment until such alteration or amendment is effected.

If any workman, without the consent or privity of his master, and through carelessness or wilfulness, infringe the provisions of the statute (s. 19), he may be summoned before two justices, and, on conviction of the offence, be liable to forfeit a sum not exceeding fifty shillings, and, in default of payment, may be committed to prison for any period not exceeding one month.

CHAPTER V.—*Recovery of Costs and Expenses in certain Cases.*

For the purpose of reimbursing any building-owner for the expense of the following works, undertaken in respect of any party structure built to separate the buildings or premises of others from his own, the Act provides compensation (s. 46), viz.:—

1st. For any party-wall built on the line of junction between two buildings.

2nd. For any party-wall between a building and vacant ground belonging to different owners or occupiers.

3rd. For any ruinous party-wall rebuilt in pursuance of this statute.

4th. For timber partitions pulled down and party-walls built.

5th. For a new party-wall or party-arch built in compliance with the provisions of this Act between intermixed properties.

6th. For any party-wall built on the site of a party-wall or party-fence-wall, and used otherwise than as a party-wall by the person who has not built the same.

7th. For every other case of reimbursement in respect of any party structure—that if the party structure be built in conformity with the provisions of the Act certain compensation may be recovered by the building-owner (at whose expense the work shall have been done) from the adjoin-

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ing owner. And that until the expenses so due shall have been paid, the building-owner shall be possessed of the sole property of the party structure and of the ground whereon it stands, which shall vest exclusively in him, in contravention of the general rule of law, that by building on another man's ground you abandon the property in the structure to the owner of the soil.

Within twenty-one days of the completion of the work (s. 47), the building-owner or party at whose expense the work has been done, is to deliver to the adjoining owner an account of the costs incurred, including the quantities and prices of the work, and the deductions (if any) which the adjoining owner is entitled to make; and when this account has been approved by the official referees, payment may be demanded, and if not made within ten days then the claimant may proceed in a summary way before two justices or a police magistrate (s. 102), who may issue a warrant of execution for the amount, or, in default of goods and chattels to satisfy the writ, may commit the debtor till the debt and costs are paid.

CHAPTER VI.—*Recovery of Cost by Occupiers and Part-owners.*

Where the occupier has paid costs to which the owner was liable, he is at liberty to deduct them from the rent due or falling due from himself to the latter (s. 48).

And where one part-owner has paid costs to which any other part-owners are bound to contribute, the proportions in which they shall contribute, are, in case of dispute, to be determined by the official referees (ss. 49, 50); and the party entitled to claim contribution may receive the rents and profits of the buildings in respect of which the expenses have been incurred, or obtain a warrant of distress by application to two justices.

CHAPTER VII.—*Indictment of Dwellings unfit for Habitation.*

With regard to buildings of the dwelling-house class, no room or cellar in them built in contravention of the rules specified in Schedule (I.) can be let as a dwelling, nor occupied as such (s. 53); nor can any room of less area than one hundred square feet, nor any built wholly underground, be used for any other purpose than as a ware or store-room; nor can any part of any building of the dwelling-house class be used as a pig-sty, dog-kennel, or for any other noxious purpose; And on conviction for any offence against these provisions before two justices, the party convicted is liable to forfeit for every day that such offence has continued a sum not exceeding 20 shillings, half of which penalty shall go to the person sueing for the same, and half to the poor of the parish in which the offence shall have been committed.

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CHAPTER VIII.—*Indictment of dangerous Trades.*

No buildings of any class can be erected nearer than fifty feet from any building in use for a business dangerous in respect of fire and explosion (s. 54). Nor can any one commence such a business in a building at any less distance than forty feet from any public way, or than fifty feet from any other building; or if such business be now carried on in any situation within those distances, then at the expiration of twenty years from the passing of this Act, it shall no longer be lawful to continue it.

If any person erect any building near to such dangerous business, contrary to this Act, then, on conviction before two justices he shall forfeit £50.

If any person establish anew such a business, or carry it on contrary to this Act, he shall forfeit on conviction as before, a sum not exceeding £50 for every day that the offence continued, and reasonable costs to the prosecutor, to be recovered by distress, or, if there be no distress, the offender to be imprisoned for any period not exceeding six months.

CHAPTER IX.—*Indictment of unhealthy Trades.*

As regards proximity to buildings wherein trades injurious to health are carried on, the provisions contained in section 55 are in all respects similar to the last. They are similar also in the penalty imposed on offenders, and the mode of recovery, by distress or imprisonment.

The penalty, however, can be mitigated at the discretion of the justices (s. 56), if it should appear that the party has used all available means for mitigating the injurious effects of such business; or the justices have power to suspend the execution of their order, where the party has made due endeavours to mitigate the noxious effects of the trade, though he has not employed the best means, and to give him an opportunity within a limited time of adopting such other and better means as to the court shall seem fit.

An appeal to the sessions is allowed in cases of conviction in respect of trades not enumerated (s. 57).

And all former remedies, criminal or civil, are left as much available as before the passing of the Act (s. 60).

CHAPTER X.—*Appeals.*

On the conviction before two justices of any person for carrying on any noxious trade not specifically mentioned in the Act, and not declared to be a nuisance by some superior court, the party convicted may appeal to the quarter sessions, to be held within four months from the time of conviction (s. 57), and obtain a trial by jury (s. 58).

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Notice of appeal must, however, be given within two days of the conviction, and the appellant must enter into recognizances, with two sureties, to try such appeal.

If the premises are in the city of London, the appeal must be to the quarter sessions thereof.

If the premises are in Middlesex, Kent, or Surrey, or in the city or liberties of Westminster, or in the liberties of the Tower, the appeal must be to the quarter sessions thereof respectively.

The decision of the quarter sessions is to be final.

If the appeal be to the quarter sessions of Kent or Surrey (s. 56), the trial is to be at some general or special adjournment thereof, to be held within six weeks next after the original sessions.

If the matter relate to Surrey, the adjourned sessions to be held in Southwark.

If it relate to Kent, the adjourned sessions to be held at Greenwich.

All further adjournments to be within three weeks of the last meeting.

CHAPTER XI.—*Purchase of noxious or offensive Trades.*

Two-thirds of the inhabitant householders of any parish or place where such business is carried on, may memorialize the Sovereign in council for its removal (s. 61)—promising compensation to the parties by levying a rate or raising a subscription. The committee of the privy council for trade to report thereon—when the Sovereign may order that its removal be purchased either at the expense of the memorialists or by means of a rate. Sheriff to summon a jury who shall assess the compensation to be paid to the party carrying on the business and to the owner of the premises.

If within three months of the verdict of the jury the money be raised, and paid, or tendered, then within three months from such payment or tender it shall cease to be lawful for the party carrying on such trade to continue it, or for the owner of the premises to suffer them to be so used.

If the Sovereign order the compensation to be paid by a rate, then the overseers of the parish may raise it as part of the poor's-rate on the parish generally or otherwise, as the order in council shall direct (s. 62).

CHAPTER XII.—*Informalities in Distress and Actions thereon.*

Though any distress under the provisions of this Act be informal, it shall not be deemed unlawful, nor the party making the same a trespasser *ab initio*. But for any irregularity an action for damages may be brought and full satisfaction for special damage only, recovered—(s. 100).

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CHAPTER XIII.—*Recovery of Fees by District Surveyors.*

ONE MONTH after the roof of any building erected and surveyed under this Act has been covered in, and the walls carried up to their full height, and the principal timbers, partitions and floors fixed in their places: And FOURTEEN DAYS after the completion of any addition, alteration and repair; and FOURTEEN DAYS after each special service shall have been performed, and on tendering an account and receipt, the surveyor will be entitled to the fees specified in Schedule (L.)—(s. 77). If payment be refused a justice may issue a warrant to levy the amount by distress, as in cases of poor's-rate.

If the work shall not have been done in conformity with the provisions of the Act, the surveyor will not be entitled to his fee; or if he shall, under these circumstances, have received it, he may be compelled to refund on application to the official referees.

CHAPTER XIV.—*Recovery of Awards.*

All sums of money due under any award or certificate made under this Act, in respect of any works done in pursuance thereof, may be recovered in a summary manner (s. 102,) by application to two justices of the peace, or, if the matter arise within the district of the metropolitan police, to a police magistrate, who may issue a warrant to levy the amount by distress on the goods and chattels of the person in default, or, if there be no sufficient distress, then to commit him to prison until the fine be paid.

CHAPTER XV.—*Prosecutions for Offences under the Act, Limitation of Penal Actions, and Rules prescribed with regard to Civil Proceedings against Persons acting under the Act.*

For any offence against the provisions of this Act, complaint may be made before any justice or police magistrate (s. 103), who may summon the offender, and, on conviction before two justices or a magistrate, the penalty imposed may be levied by distress, or the offender imprisoned until the penalty and costs are paid.

Every action brought to recover the amount of a penalty or forfeiture incurred under this Act, must be brought within six months of the time when the forfeiture was incurred (s. 106).

And, except where the amount of the penalty shall be otherwise specifically appropriated, the person sueing for it shall be entitled to claim it for himself (s. 107).

No action can be maintained against any one for any act done in pursuance of the provisions of this statute unless commenced within six months of the time of the act committed (s. 108); and TWENTY-ONE DAYS' notice of such action must be given in writing.

If the cause of action have arisen in the city or liberties of London, the venue must be laid in London.

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If without those limits, the venue must be laid in Middlesex.

The defendant may plead the general issue, and give this Act and the special matter in evidence.

If the verdict be for the defendant he may recover full costs; and on application by the defendant to the court in which any such action shall be pending, the plaintiff may be compelled to give security for costs (s. 109).

CHAPTER XVI.—*Removal of Orders, Writs, &c. by Certiorari.*

No orders or proceedings under this Act are removable into the superior courts (s. 104), except in case of conviction of any party for carrying on some noxious business not specified in the Act.

CHAPTER XVII.—*Exemption from Stamp Duty.*

Every certificate and award required to be made and signed by the surveyor or official referee under this Act is exempted from stamp duty (s. 118).

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A GLOSSARY OF TECHNICAL TERMS,

PECULIAR TO BUILDING,

COMMONLY OCCURRING THROUGHOUT THIS ACT.

ADJOINING OWNER.—The owner of any premises or ground adjoining to those of any party desirous of building, repairing, or rebuilding any wall, party-wall, party-arch, or party-fence-wall.

BACK OF A CHIMNEY.—That portion which abuts against a party or external wall.—*See* CHIMNEY-BREAST.

BOND.—Timbers built into walls to bind them firmly together, and equalize the pressure; so that they may settle altogether and at once into their places.

BONDED.—A term applied to brickwork, built in such alternate courses of bricks laid lengthways and across, that the whole is firmly bonded or bound together.

BREASTSUMMER, BRESTSUMMER, or BRESSUMMER.—A beam of wood or iron laid over an opening (as a shop-front, &c.) to support the superincumbent weight.

BUILDER.—The term "builder" is specially defined by the Act (s. 13), to be "the master-builder or other person employed to execute any work; or, if there be no master-builder or other person so employed, then the owner of the building, or other person for whom or by whose order such work is to be done."

BUILDING-OWNER.—The party desirous of building, rebuilding, or repairing any wall, party-wall, &c. is "the BUILDING-OWNER;" his neighbour, "the ADJOINING OWNER," (s. 20.)

CELLAR.—A room altogether underground.

CHASE, or CHASING; *unde* CHASED.—A sinking or cutting into brickwork or masonry, for the reception of other work.

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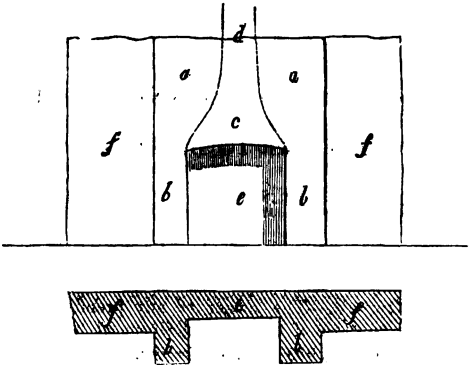
CHIMNEY-BREAST.—The general term "Chimney" comprises the several parts here given: as, *a*, the CHIMNEY-BREAST; *b*, the CHIMNEY-JAMBS; *c*, the NECK; *d*, the FLUE; *e*, the BACK; *f*, the WALL.



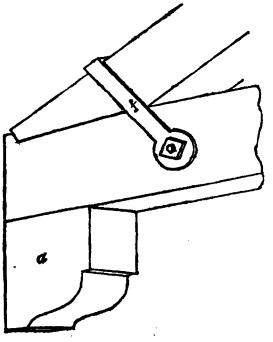
CHIMNEY-SHAFT.—That portion of the chimney which protrudes above the roof.

CHIMNEY-STACK.—A range, cluster, or congregation of chimney-shafts.

COLLAR-BEAM.—*See* ROOF.

CONCRETE.—A compound of sharp gravel and lime in the nature of mortar, but of a more solid and durable quality, used for artificial foundations, &c.

CORBEL.—A projection of stone, iron, or timber, thrown out from the face of a wall as *a*, for the purpose either of giving



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additional stability to some beam, or of supporting some superincumbent weight.

CORBELLING.—Projecting over, in the manner of a corbel.

COPING.—The covering of a wall.

COURSE.—A single line or range of bricks in brickwork, or stones in masonry.

DORMER.—An opening (generally a window) projecting from the sloping side of a roof.

DOMED.—Covered over with a solid circular arch, or vaulting.

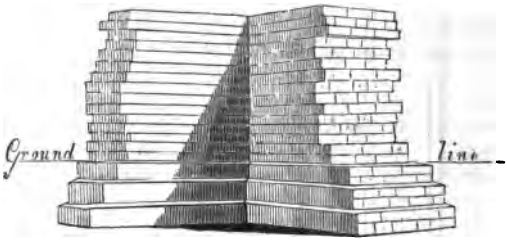
EXTERNAL WALL.—That outer wall of a building which stands wholly upon ground belonging to the owner of such building.

FENCE-WALL.—A wall dividing several portions or plots of ground, but not used for building purposes.

FLOOR.—The horizontal platform (whether timber, or brick-built) forming the base of any story.

FLUE.—The interior channel of a chimney.

FOOTINGS.—The lowest courses of a foundation.



FOUNDATION.—That portion of a wall which is built altogether under ground, and earthed in on all sides.

GIRDER.—The principal beam in a floor.

GUTTER PLATE.—That horizontal timber upon which the gutter rests.

HEAD OF A PARTITION.—*See* PARTITION.

IRON SHOES.—Open sockets of iron, attached to walls or timbers, to receive the ends of other timbers.

JAMB.—*See* CHIMNEY-BREAST.

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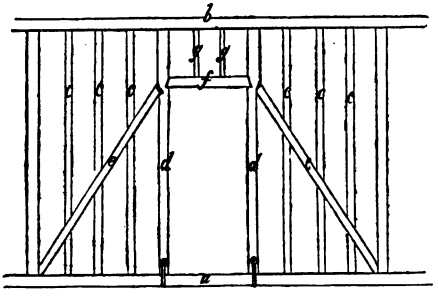
JOISTS.—Those timbers in a floor which carry the flooring-boards. Those joists which have their ends laid upon other joists, instead of upon the wall, whilst they themselves also receive and carry the ends of others, are called TRIMMERS. Those which have their ends laid upon the trimmers without themselves carrying others, are said to be TRIMMED; whilst those which only receive the ends of the TRIMMERS, having their own ends laid upon the wall, are distinguished as TRIMMING JOISTS.

LINTEL.—The headpiece inserted over any opening, as windows, doors, &c.

OVERSAILING.—Protruding beyond the face below.

PARGETTING, or PARJETTING, *unde* PARGETTED.—A term applied to the internal plastering of chimney flues.

PARTITION.—A framed timber division between two rooms. The principal component parts of a partition are as follows:—*a*, the SILL; *b*, the HEAD; *c*, the QUARTERING—but when extra strength is required, the following parts are added:—QUEENPOSTS, *d*; BRACES or STRUTTS, *e*; STRAINING-PIECE, *f*. The short quarterings, *g*, above the latter, are called PUNCHINS.



PARTY-ARCH.—An arch separating, bounding, or dividing any two or more properties, and extending over ground not wholly in the same ownership or occupation.

PARTY-WALL.—A wall used or built to separate any two or more buildings, or ground belonging to any two or more individuals, and standing upon ground not wholly in the same ownership or occupation (s. 2.)

PARTY-FENCE-WALL.—A wall not used for building purposes, but only as a boundary, dividing the property of any two or more owners, and built upon ground not wholly belonging to either.

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PIERS.—Plain pillars, or solid masses of building between, or at the sides of openings.

PLATES OF A WALL.—Horizontal timbers laid along the walls for the reception of the framed timbers of the roof.—*See* ROOF.

PORCH.—An *enclosed* covered way at the entrance of a building, in contradistinction to a

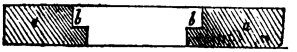
PORTICO—which is a covered entrance, open at the sides.

RENDERED.—A technical term in plastering, signifying "coated." The act of covering with a coat of plaster is generally termed "laying on," when the plaster is applied on laths; but "rendering," on brickwork. Thus, "brickwork rendered in cement," simply means "brickwork coated with cement."

REBUILDING.—The late act, (14 Geo. III., c. 78, ss. 24, 43,) having defined the meaning of "rebuilding" to be when two-thirds of either the front or back front wall shall be rebuilt so low as the bressummer, or one pair of stairs' floor; or when the front and back front walls shall have been rebuilt as low as the bressummer, within five years of each other, that the last rebuilding of either such walls within such interval of five years, shall be deemed to be a rebuilding of the whole house." This reading of the term has become universal; nor does the present Act interfere with this definition, but rather seems to confirm it, by adopting the terms "rebuilt" and "rebuilding," without any special interpretation of its own, excepting as regards *timber partitions* alone, as to which, (s. 33,) it enacts, that the taking down of "one of the fronts to the height of one story, or for a space equal to one-fourth of such front, from the level of the second floor upwards," shall be taken to be a rebuilding for the purposes of the Act.

REPAIR.—Any work which affect the main walls or timbers of a house, short of rebuilding.

REVEAL, or sometimes REVEL.—The return-face of a wall cut into, for the reception of a door or window-frame. Thus *a* being the wall—*b* is the reveal.



ROOF.—The word "roof" is now generally employed to denote that timber framing which forms, or rather supports the covering of any building. The more legitimate designation of that framing, however, is ROOF-TRUSS; the ROOF, strictly speaking, according to its original meaning, being a general term for any covering to a building, whether framed or not.

The two most common descriptions of ROOFS (or ROOF-

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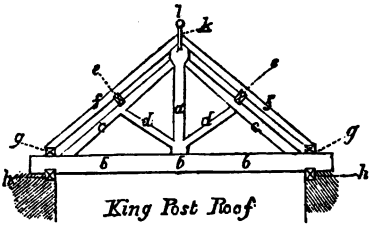
TRUSSES) are those known by the name of "KING POST ROOF" (Fig. I.), and "QUEEN POST ROOF" (Fig. II.); and of these the several component parts are thus distinguished:—

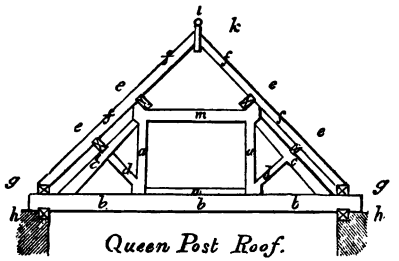
FIG. I.



King Post Roof

a, King Post.
b, Tye Beam.
c, Principal Rafters.
d, Strutts or Braces.
e, Purlins.
f, Common Rafters.
g, Pole Plates.
h, Wall Plates.
k, Ridge.
l, Ridge Roll.

FIG. II.



Queen Post Roof.

a, Queen Posts.
b, Tye Beam.
c, Principal Rafters.
d, Strutts or Braces.
e, Purlins.
f, Common Rafters.
g, Pole Plates.
h, Wall Plates.
k, Ridge.
l, Ridge Roll.
m, Straining or Camber Beam.
n, Straining Sill.

A COLLAR BEAM is a timber introduced into the position of the Straining Beam (*m*, Fig. II.) in roofs of simpler construction; and which, having no Tye Beams, are dependent on the Collar Beam for their connection.

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SCANTLING.—A professional term for "proportional dimensions."

SHORING, *unde* SHORE-UP.—Supporting with props.

SILL OF A PARTITION.—*See* PARTITION.

SLAB.—The stone inserted at the bottom of a fire-place, to receive the ashes, &c. There are always two slabs—the back slab, under the grate,—and the front slab, more commonly known by the name of the hearthstone.

SQUARE.—In measurement, an area of 100 superficial or square feet.

STEENED.—In wells or cesspools, lined with brick or stone, laid dry, without mortar.

STORY.—The space between the under side of any floor, and the under side of the floor next above it. In measuring the height of a story, the full thickness of the lowest floor must be included (s. 2.)

STORY POSTS.—Isolated posts supporting a brestsummer, beam, or girder.

TAILED THROUGH.—Worked through.

TEMPLATES.—Short pieces of timber, stone, or iron, laid under the ends of beams or girders, to shorten the bearing and equalize the pressure.

TIE BEAM, or TYE BEAM.—*See* ROOF.

TRIMMERS.
TRIMMING JOISTS.} —*See* JOISTS.

WITHE OF A FLUE.—The brick partition which divides two flues running side by side.

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